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REPORT
102-63

COMPREHENSIVE URANIUM ACT OF 1991

MAY 23 (legislative day, APRIL 25), 1991.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 210]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 210) to establish the United States Enrichment Corporation to operate the Federal uranium enrichment program on a profitable and efficient basis in order to maximize the long term economic value to the United States, to provide assistance to the domestic uranium industry and to provide a Federal contribution for the reclamation of mill tailings generated pursuant to Federal defense contracts at active uranium and thorium processing sites, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 5, line 21, strike "(1)" and insert "a.".
2. On page 6, line 1, strike "(2)" and insert "b.".
3. On page 6, line 4, strike "(3)" and insert "c.".
4. On page 6, line 6, strike "(A)" and insert "(1)".
5. On page 6, line 8, strike "(B)" and insert "(2)".
6. On page 6, line 9, strike "(4)" and insert "d.".
7. On page 6, line 13, strike "(5)" and insert "e.".
8. On page 6, line 19, strike "(6)" and insert "f.".
9. On page 6, line 23, strike "(7)" and insert "g.".
10. On page 7, line 1, strike "(8)" and insert "h.".
11. On page 7, line 3, strike "(9)" and insert "i.".
12. On page 7, line 8, strike "(10)" and insert "j.".
13. On page 11, line 1, strike "the" the second place it appears.
14. On page 14, line 11, insert a period after "REGULATIONS".
15. On page 15, line 6, strike "elsewhere in this title" and insert "in section 1404".

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16. On page 15, line 22, insert a period "ADMINISTRATOR".
17. On page 16, line 23, strike "(c)" and insert "d.".
18. On page 18, designate all of line 5 after the section heading through line 14 as subsection "a."; strike the colon in line 14 and insert a period; and redesignate subsequent sections accordingly.
19. On page 19, line 9, strike the parentheses.
20. On page 19, line 13, strike "(a)" and insert "b.".
21. On page 19, line 22, strike "(a)" and insert "b.".
22. On page 22, designate lines 7 and 8 as subsection "a."; strike the colon in line 8 and insert a period; and redesignate subsequent subsections accordingly.
23. On page 22, line 20, strike "(c)" and insert "d.".
24. On page 25, line 23, after the section heading, strike the remainder of line 23 and all of line 24.
25. On page 30, line 5, strike the colon and insert ".—".
26. On page 31, line 24, strike the colon and insert ".—".
27. On page 34, line 13, strike the colon and insert ".—".
28. On page 36, line 17, strike "(a)" and insert "a.".
29. On page 36, line 21, strike "1505(a)" and insert "1505a.".
30. On page 38, line 19, insert a period after "AUDITS".
31. On page 39, line 13, strike "Reports:" and insert "REPORTS.—".
32. On page 40, line 10, strike the colon and insert ".—".
33. On page 41, line 5, strike "manager" and insert "Manager".
34. On page 41, line 24, strike the colon and insert ".—".
35. On page 42, line 2, strike the comma and insert "or"; and on line 3, strike ", and 158".
36. On page 43, line 19, insert "under section 183 of title 35, United States Code" before "with respect"; and on lines 20 and 21, strike "title 35, United States Code, through 187." and insert "such title.".
37. On page 44, line 15, strike the colon and insert ".—".
38. On page 46, line 11, insert a period after "TAXES".
39. On page 46, line 14, insert "beginning in fiscal year 1997" after "directed".
40. On page 47, line 5, strike "The"and insert "Beginning in fiscal year 1997, the".
41. On page 48, lines 3 and 4, strike 'In no event shall the payment made to any taxing authority for any period" and insert "Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall".
42. On page 48, line 18, strike "the enactment of this title" and insert "fiscal year 1997".
43. On page 48, line 22, strike the colon and insert ".—".
44. On page 48, line 24, strike "110 a.,".
45. On page 50, line 1, strike the colon and insert ".—".
46. On page 51, lines 7 and 8, strike "to obtain necessary funds with which".
47. On page 51, line 11, strike the colon and insert ".—".
48. On page 51, lines 12 and 13, strike "or January, 1993, whichever is later".
49. On page 52, line 9, strike the colon and insert ".—".
50. On page 53, line 25, strike the colon and insert ".—".
51. On page 55, line 20, strike "II" and insert "2".

52. On page 56, line 17, strike "1501(a)" and insert "1501a."; and on line 18, strike "and previous Acts".

53. On page 56, after line 18, and the following new section:

SEC. 118. PAYMENT OF COST OF TRANSFER.—

(a) Notwithstanding section 1401j. of the Atomic Energy Act of 1954 as amended by section 112 of this title, any expense incurred by the Secretary or the Corporation in the course of setting up the Corporation or transferring the property or assets of the Department to the Corporation shall be subject to appropriation.

(b) There are authorized to be appropriated such sums as may be necessary to pay the costs of setting up the Corporation and transferring the property and assets of the Department to the Corporation under this title.

54. On page 56, strike line 19, and insert "TITLE II".

55. On page 69, after line 8, insert the following new subtitle:

Subtitle D—Imports of Uranium, Enriched Uranium, and Uranium Enrichment Services

SEC. 230. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the domestic uranium industry and the economic viability of the Federal uranium enrichment enterprise may be threatened by exports of uranium and enriched uranium from non-market economy countries at prices which represent less than the cost of producing uranium or enriching uranium; and

(2) the national security and defense interests of the United States require that appropriate actions be taken to assure that the nuclear energy industry in the United States does not become unduly dependent on foreign sources of uranium or uranium enrichment services.

(b) PURPOSES.—The purposes of this subtitlte are to—

(1) determine whether any uranium or enriched uranium is being exported by non-market economy countries at prices which represent less than the cost of producing such commodities; and

(2) provide for appropriate actions to assure the viability of the domestic uranium industry and the Federal uranium enrichment enterprise in order to protect the national security and defense interests of the United States.

SEC. 231. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) "Administrator" means the Administrator of the Energy Information Administration;

(2) "Federal uranium enrichment enterprise" means the uranium enrichment activities of the Department of Energy or the United States Enrichment Corporation; and

(3) "utility regulatory authority" means any state agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer except that for the purposes of this paragraph, the terms "electric utility", "state agency", "Federal agency", and "ratemaking authority" have the same meanings as the terms have under section 3 of the Public Utility Regulatory Policies Act of 1978.

SEC. 232. UNITED STATES INTERNATIONAL TRADE COMMISSION INVESTIGATION.

(a) Within sixty days after the date of enactment of this subtitle, the United States International Trade Commission, shall initiate an investigation to determine—

(1) the quantities of uranium or enriched uranium being exported from non-market economy countries;

(2) the amount and nature of uranium enrichment services being offered by non-market economy countries; and

(3) whether such uranium, enriched uranium or enrichment services are being offered at prices which represent less than the cost of producing such uranium or enriched uranium or providing such uranium enrichment services.

(b) The Secretary, the Administrator and the Secretary of Commerce shall cooperate fully with the Commission in the investigation and shall furnish them all records, analyses and information in their possession regarding the productive costs, sales costs and exports of uranium and enriched uranium, or the provision of uranium enrichment services, by non-market economy countries.

(c)(1) Within one year after the date of enactment of this part and annually thereafter, the Commission shall furnish a report containing the results of the investigation and its determination under paragraph (a)(3) to the President, for the use of the Secretary and Secretary of Commerce, and the Congress.

(2) If the Commission determines that any non-market economy country is exporting uranium or enriched uranium, or providing enrichment services, at prices which represent less than the cost of production, the President, or his designee, within 120 days of receipt of the report from the Commission, shall transmit to the Congress a report on what actions are being taken by the Federal government to discourage or end such pricing practices, including the status of any negotiations with such country to end such pricing practices.

(d) The Commission shall take such steps as, in its judgment, are necessary, including the classification of information, to assure appropriate protection of any confidential information.

SEC. 233. URANIUM PURCHASES REPORTS.

(a) By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) The information provided to the Secretary pursuant to this section shall be made available to the Committee on Energy and Natural Resources of the United States Senate and appropriate committees of the United States House of Representatives by March 1 of each year.

(c) For the purposes of this section, the term "country of origin" means,

(1) with respect to uranium, that country where the uranium was mined or,

(2) with respect to enriched uranium, that country where the uranium was mined and enriched, or

(3) with respect to enrichment services, that country where the enrichment services were performed.

SEC. 234. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) Within one year of the date of enactment of this subtitle, and annually thereafter, the Secretary shall report to Congress on his progress in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this subtitle.

(c) As used in this section, a seller is "non-affiliated" if it does not control, and is not controlled by or under common control with the buyer.

SEC. 235. UNITED STATES PURCHASE OF ENRICHED URANIUM.

(a) Subject to the limitations of subsection (b), the Secretary or the United States Enrichment Corporation is authorized to purchase enriched uranium from other sources of enriched uranium at prices below the production costs of the Department of Energy or the Corporation, respectively, if such purchases are necessary to reduce production costs and maintain competitive prices.

(b) If enriched uranium purchased by the Secretary or the United States Enrichment Corporation is used to supply enrichment customers, any uranium provided by such customers to the Secretary or the United States Enrichment Corporation as feed material may only be used for rebuilding uranium inventory or for overfeeding purposes.

I. Purpose of the Measure

The purpose of the Comprehensive Uranium Act of 1991 is to ensure an adequate long-term supply of domestic uranium and uranium enrichment capacity for the nation's national defense and energy needs. Title I of the bill transfers the nation's uranium enrichment enterprise from the Department of Energy (DOE) to a new government corporation, which is expected to be able to operate the business on a more efficient, competitive, and profitable basis. Title I also includes a provision to set aside part of the corporation's revenues to decommission the enrichment plants at the end of their useful lives. Title II of the bill contains measures intended to assist the domestic uranium mining industry. Title II encourages enrichment customers to purchase additional domestic uranium, requires that uranium purchased by the Federal Government be mined in the United States, and authorizes a $300 million federal contribution to help clean up mill tailings generated pursuant to federal contracts. The Committee amendment to Title II requires that certain actions be taken to protect domestic sources of uranium, enriched uranium, and uranium enrichment services from foreign sources selling uranium or enrichment services at prices below production costs.

II. Overview of Major Provisions

A. Title I—Uranium Enrichment Act of 1991

Title I of S.210 amends the Atomic Energy Act of 1954 (AEA) and other laws to provide for the transfer of the uranium enrichment enterprise from the Department of Energy (EOE) to a new government corporation.

Section 111 of the bill strikes section 161v. of the AEA, which contains the current pricing and operating guidelines for the enrichment program.

Section 112 of the bill adds a new Title II to the AEA, establishing the new government corporation. Following is a summary of the major new provisions of the AEA added by section 112 of the bill:

AEA section 1202 establishes the "United States Enrichment Corporation" as a wholly-owned Government corporation and an agency and instrumentality of the United States.

AEA section 1203 describes the purposes of the Corporation. These include operating the Corporation as a commercial enterprise, on a profitable and efficient basis, in order to maximize the long term economic value to the United States, and conducting its activities consistent with the health and safety of the public.

AEA section 1401 establishes the corporate powers and duties of the Corporation. These include: providing uranium enrichment and related services for commercial customers; conducting research and

development; and providing uranium and uranium enrichment and related services to DOE for defense purposes.

AEA section 1501 vests the management of the Corporation in an Administrator, appointed by the President, with the advice and consent of the Senate. The Secretary of Energy retains authority for general supervision over the Administrator concerning common defense and security, and health, safety, and the environment.

AEA section 1503 establishes a five-member Corporate Board appointed by the President. The Corporate Board is directed to review the policy and performance of the Corporation. The Administrator is required to respond, in writing, to any rejection of the recommendations of the Corporate Board.

AEA section 1505 authorizes the Secretary, upon the Administrator's request, to transfer appropriate DOE properties to the Corporation, including production facilities, stocks of feed materials, and enriched uranium. The Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee and the Gas Centrifuge Enrichment Plant in Portsmouth, Ohio remain with DOE, except for replacement parts. The Oak Ridge Gaseous Diffusion Plant will be transferred to the Corporation when decontamination or decommissioning is to occur, but no earlier than January 1, 2001.

AEA section 1506 establishes the capital structure of the Corporation. It directs the Corporation to issue to the Treasury stock representing an equity investment equal to the book value of the assets transferred to the Corporation. The book value of these assets is now estimated to be about $2.2 billion. The Corporation will pay dividends to the Treasury out of earnings as a return on the investment, unless there is an overriding need to retain these funds. This section also establishes an "initial debt" of the Corporation at $364 million, which is to be repaid to the Treasury within 20 years. The amount of the "initial debt" is equal to cumulative appropriations to the enterprise less cumulative receipts from fiscal year 1969 through 1986.

AEA section 1507 authorizes the Corporation to obtain $2.5 billion of private financing, which may be secured by the Corporation's revenues. The Corporation is prohibited from borrowing from the Federal Financing Bank.

AEA section 1508 authorizes the Corporation to price its commercial services competitively within certain guidelines and consistent with the purpose of maximizing the long-term economic value to the United States. Prices charged commercial customers must recover the Corporation's costs, repay the "initial debt," and recover decommissioning expenses. Prices charged DOE for low assay defense enrichment services are capped by the average price to commercial customers. Prices charged DOE for high assay enrichment services must also provide for the maintenance of a minimum level of operation of the high assay production facility.

AEA section 1601 initially exempts existing facilities of the Corporation from licensing by the Nuclear Regulatory Commission (NRC). However, the NRC is directed to issue rules or guidelines for licensing existing facilities within two years of the date of enactment. One year later, the Corporation must apply for an NRC license. The facilities may continue to operate until a license is issued. The corporation is subject to the regulatory jurisdiction of

the NRC and the Department of Transportation with respect to the packaging and transportation of nuclear material.

AEA section 1606 provides the Administrator the same authority to indemnify contractors of the Corporation as the Secretary of Energy has to indemnify contractors of the Department under the Price-Anderson Act. However, once the facilities are licensed by the NRC, the Commission shall treat the Corporation and its contractors as licensees for Price-Anderson purposes.

AEA section 1608 requries an interim study on the feasibility of privatization three years after the date of enactment. This section also requires a final report on privatization five years after the date of enactment.

AEA section 1701 establishes the Uranium Enrichment Decontamination and Decommissioning Fund in the Treasury.

AEA section 1702 requires the Corporation to make annual payments to the Fund from enrichment revenues.

Section 113 of S. 210 subjects the new corporation to federal, state, and local environmental laws and the Occupational Safety and Health Act to the same extent as DOE during its first four years, and to the same extent as a private corporation thereafter.

Section 114 exempts the new corporation from sequestration under the Gramm-Rudman-Hollings Balanced Budget and Emergency Deficit Control Act of 1985.

B. TITLE II—URANIUM SECURITY AND TAILINGS RECLAMATION ACT

Section 210 of Title II establishes a voluntary overfeeding program for the Corporation. The Corporation's customers are encouraged to supply more domestic uranium than necessary, enabling the Corporation to reduce its power costs through "overfeeding." Savings achieved by the Corporation, resulting from reduced power requirements made possible by overfeeding, will be credited to the customer.

Section 211 establishes a National Strategic Uranium Reserve, which consists of 50,000,000 pounds of natural uranium contained in United States defense stockpiles.

Section 212 preserves the Secretary of Energy's responsibility for the viability of the domestic uranium industry.

Section 213 prohibits the Corporation and federal agencies other than the Tennessee Valley Authority from purchasing uranium from foreign producers or uranium from domestic producers that was not mined in the United States.

Section 220 directs the Secretary to reimburse licensees of active uranium or thorium processing sites for a portion of the costs of decontamination, decommissioning, and remedial action of tailings generated as an incident of sales to the United States. This reimbursement is subject to a limitation of $4.50 per ton of tailings, and costs must be incurred prior to December 31, 2002.

Section 222 authorizes the appropriation of not more than $300 million for a federal contribution to mill tailings cleanup costs, subject to an inflation index determined by the Secretary.

Section 232 requires the United States International Trade Commission to investigate the sale of uranium (both natural and enriched) and enrichment services by non-market-economy countries

to domestic utilities at prices below the cost of producing or enriching the uranium.

Section 233 requires operators of civilian nuclear power plants to report the country of origin and seller of all uranium they purchase.

Section 234 directs the Secretary of Energy to encourage state utility regulatory authorities to consider the importance of maintaining a viable domestic uranium industry when deciding whether to allow regulated utilities to recover from ratepayers any higher price paid for domestic uranium.

Section 235 authorizes the United States Enrichment Corporation (and the Secretary of Energy during the period between the date of enactment and the date the Corporation takes over the enrichment enterprise) to purchase enriched uranium from other sources at prices below its production costs if necessary to reduce costs and maintain competitive prices, notwithstanding section 213. Any uranium feedstock received by the Corporation or DOE from customers for enrichment that is displaced by enriched uranium purchased under this section can only be used by the Corporation or DOE to rebuild inventory or for overfeeding.

III. Background and Need

A. UNITED STATES ENRICHMENT CORPORATION

History of the enrichment enterprise and development of an international marketplace

Under the Atomic Energy Act of 1954, DOE is responsible for producing enriched uranium for civilian and defense uses. DOE operates the only domestic facilities for the enrichment of uranium to produce fuel for commercial nuclear power production, nuclear-powered submarines, and nuclear weapons. In the 1960's and early 1970's, DOE had a worldwide monopoly in enrichment technology and in the provision of enrichment services. Since that time, several European countries and the Soviet Union have built capacity to serve their own nuclear power programs. These foreign consortia—Eurodif (made up of French, Italian, Spanish, Belgian, and Iranian government corporations and private utilities) and Urenco (made up of British and Dutch government corporations and German private corporations)—and the Soviet Union now offer strong competition to DOE. DOE currently serves about 82 percent of the domestic market, but serves less than 50 percent of the world market outside the Soviet Union. The current U.S. enrichment program is structured by law to operate as the monopolist in the enrichment services market, even though business circumstances dictate otherwise.

In the 1960's and early 1970's, there were growing expectations for a large nuclear power program. These expectations prompted utilities to sign long-term, fixed commitment contracts that require the delivery of uranium to the Government on a fixed schedule for purposes of enrichment. Due to these growth expectations, the existing and planned enrichment capacity of 27.3 million separative work units (the standard measure of enrichment services, generally

referred to as "SWU") per year was fully under contract by 1974, and consequently DOE closed its order books.

Subsequent growth in the world market for enrichment services was far less than expected. Large customer-held inventories of enriched uranium accumulated as utilities were unable to use all of the uranium that they were committed to take under those long term fixed commitment contracts. This buildup of inventory created a secondary market in enriched uranium. DOE's closing of its order books also encouraged the development of foreign competition, which ultimately contributed significantly to the deterioration of DOE's share of the market.

Foreign suppliers have excess production capacity that could continue to erode the U.S. market share. The Soviet Union is estimated to have excess capability of about 10 million SWU per year that compete for long term or spot sales. European suppliers also have excess capacity estimated to be in excess of 4 million SWU per year. The European suppliers can also add increments of new capacity with relatively short lead time at low marginal costs, enabling them to aggressively compete for long term contracts. Additionally, there is an inventory of several million SWU available throughout the world that can compete for short term sales. Finally, Japan is building enrichment facilities with an initial capacity estimated to be about 1.5 million SWU.

Competition also may be developing in the United States. In 1989, Louisiana Energy Services, a joint venture between three U.S. utilities, Fluor Daniel, and Urenco, announced plans to build a $750 million enrichment facility in northern Louisiana for production of 1.5 million SWU by 1996.

In spite of strong competition, DOE has been forced by the rigidity in applicable statutory requirements to try to sell SWU at prices that are 30 to 40 percent above the spot market. DOE is required, for example, to pay the Tennessee Valley Authority (TVA) under "take-or-pay" contracts for electric power that DOE neither needs nor uses. In FY 1991, these payments totaled about $160 million—over 10 percent of DOE's annual operating budget. Under current law, such costs must be recovered from DOE's customers through SWU prices. Thus, while DOE's actual "factory cost" of enriching uranium is only about $65 per SWU—significantly lower than its European competitors' costs, which are estimated to be in the $80 to $90 per SWU range—DOE must price its SWUs higher, at between $90 and $120 per SWU.

As a result of this state of affairs, many of DOE's customers are entering into enrichment services contracts with DOE's competitors or purchasing enriched uranium on the spot market. To date, DOE has lost almost $3 billion in customer commitments for 1996 through 2001.

"Unrecovered costs"

Another artificial cost imposed on the program is the "unrecovered cost" that some believe is owed to the Treasury by the enrichment program. The notion of unrecovered costs is derived from the pricing standard of section 161v. of the Atomic Energy Act. Section 161v. requires that prices established under that subsection "shall be on a basis of recovery of the Government's costs over a reasona-

ble period of time." As interpreted by DOE, enrichment prices must recover operating and capital expenditures plus imputed interest.

Congress' intent in enacting section 161v. was to prevent the Government from overcharging utilities for enrichment services by exercising the monopoly power it then held in the enrichment market. In 1964, when Congress first passed legislation authorizing the Atomic Energy Commission (AEC), DOE's predecessor, to enrich uranium for civilian power plants, it directed the Commission to charge prices that would "provide reasonable compensation to the Government." The Joint Committee on Atomic Energy, which then oversaw the enrichment enterprise, described its intent as charging a price "based generally upon the cost of doing necessary processing or 'separative' work in the Government's diffusion plants." (H. Rept. 88–1702, p. 2.) It further explained the requirements as "flexible," and involving consideration of "not only the Government's costs in providing enrichment services but also the national interest in the development and utilization of nuclear power." (*Id.* at 18.) The price was later set at $26 per SWU.

In 1969, however, the Nixon Administration proposed a change in the pricing formula that would have enabled the AEC to charge prices based not on the actual cost of providing enrichment services in the existing plants but upon a hypothetical cost of providing the service using new facilities, using debt-equity ratios, rates of return on investment, and other commerical accounting concepts. The effect of this change would have been to raise prices from $26 to $28.70 per SWU (which was $60 to $90 less than current prices).

The Joint Committee objected strongly to the Administration's proposal. It reported legislation changing the pricing provision of section 161v. from requiring recovery of "reasonable compensation to the Government" to "recovery of the Government's costs over a reasonable period of time." The Joint Committee said the purpose of this change was "to support and affirm with greater clarity the intention of the Congress" to recover only the cost to the Government of enriching uranium in the Government's gaseous diffusion plants, and to "preclude any further attempt to deviate from" that pricing policy. (H. Rept. 91–1470, p. 25.) The change was enacted as Public Law 91–560 in 1970.

In spite of this clear statement of Congress' intent in the legislative history, some have suggested that section 161v. requires recovery of not just the Government's cost of enriching uranium in the gaseous diffusion plants, but capital charges for unused plant capacity and inventory and imputed interest thereon. The General Accounting Office (GAO) has suggested that DOE's failure to recover such charges and interest be equated to Treasury borrowing. GAO has estimated the level of unrecovered costs owned to the Treasury at about $11 billion—an amount that keeps growing as interest continues to be imputed. As a matter of fact, however, neither the accounts of the Federal budget nor those of the U.S. Treasury show any "debt" for the enrichment program. The enrichment program has never taken a loan which needs to be repaid.

Nonetheless, a significant unrecovered government investment remains on the books of the enrichment enterprise. This equity, approximately $2 billion, represents the assets of the enrichment en-

terprise and will continue to be recovered through the depreciation component in the price charged for enrichment services. Recovery of these assets however does not constitute repayment of a "debt"; rather it constitutes recovery of equity.

GAO does not acknowledge the forward recovery of this investment in future revenues. GAO also does not accept DOE's legal basis for writing down $4.1 billion in unproductive assets in FY 1984 and FY 1985. In an October 1987 report, "Uranium Enrichment: Congressional Action Needed to Revitalize the Program," however, GAO stated that the write-off was consistent with generally accepted accounting principles. GAO stated further that "[s]ince the existing program cannot expect to generate revenues sufficient to recover all costs, GAO believes that a practical approach would be to allow DOE to write off unproductive assets." GAO goes on to state that "[u]nder current conditions, if DOE attempted to raise its prices to fully recover all past costs the enterprise would lose even more customers."

In the judgment of the Committee, calculation of any existing debt of the program should be based on the net appropriations obtained from the Treasury by the program since the beginning of commercial operation in 1969. Net cash flow from the Treasury has occurred when expenditures by the program for commercial purposes exceed its revenues. Excess expenditures and the interest thereon represent the costs that are still to be recovered from the enrichment program. These "unrecovered costs" are estimated at $364 million at the end of fiscal year 1986. (See Appendix I for an explanation of the calculation of this figure.) Since 1986, significant additional funds have been returned to the Treasury by the enrichment program. Therefore, applying the same methodology as above to revenues and expenditures through FY 1990 yields an over-recovery or overpayment of $657 million.

In 1990, DOE retained the firm of Smith Barney, Harris Upham & Co., Inc. to prepare a financial assessment of the enrichment enterprise. Among other things, Smith Barney examined the issue of "unrecovered costs." It concluded that the issue was "irrelevant and potentially misleading," because it is a distraction from the real issues surrounding the enrichment program on which Congress should focus. In Smith Barney's view, Congress should focus on how to structure the enterprise to maximize revenue from future sales of enrichment services. Were Congress to try to recover money for past costs through future sales, the enterprise would lose business and earn even less revenue.

Specifically, Smith Barney concluded that the accounting treatment of $11.4 billion (including imputed interest) out of about $28.4 billion (including imputed interest) invested in the enterprise between 1969 and 1989 can either be included or excluded from cost calculations depending upon policy choices. This $11.4 billion includes:

> $2.9 billion—from the Gas Centrifuge Enrichment plant, begun at a time of declining enrichment demand and never completed or used;
>
> $1.2 billion—for excess capacity at existing enrichment plants (which have operated at about 40 percent of their capacity);

$2.6 billion—for payments to the Tennessee Valley Authority for electricity the enterprise neither needed nor used; and
$4.7 billion—for imputed interest.

There is no generally accepted method for treating these costs. If they should be recovered, Smith Barney calculated the amount of unrecovered cost to be about $ 4.5 billion. If not, Smith Barney calculated that commercial customers have overpaid the Treasury $6.9 billion.

Smith Barney's report left to Congres the policy decision of how much, if any, of the $11.4 billion should be recovered. Following publication of the report, however, Smith Barney was asked to express its opinion as to what portion of the $11.4 billion it thought should be recovered. In a June 15, 1990 letter to DOE, Smith Barney recommended recovering half and writing off the other half, based upon the Federal Energy Regulatory Commission's treatment of abandoned plant costs. Applying this formula, Smith Barney concluded "that there is no unrecovered cost and, in fact, there has been an over-recover of $1.170 billion." (See Appendix II for a copy of the Smith Barney letter.)

Moreover, in today's competitive market, DOE cannot recover an additional $11 billion through SWU prices. If it were to raise its prices, its customers would simply obtain their enrichment services elsewhere. As William H. Timbers, Jr., managing director of Smith Barney testified:

> In the reality of today's competitive uranium enrichment market, the questions are no longer how much should you charge, but rather how much can you charge in the effort to maximize profits; not how best to share past costs, but rather how to minimize current and future costs so as to generate profits. In assessing the economic feasibility of restructuring the UEE [uranium enrichment enterprise], our basic tenet was that the determination of a theoretical pay-back of unrecovered costs to various parties will have little meaning if the entity responsible for the pay-back is not alive and well and generating profits to support a pay-back.

Restructuring of the enterprise

The need to restructure the uranium enrichment enterprise to operate on a more businesslike basis is well established. Nuclear energy currently provides nearly 20 percent of the Nation's energy needs; therefore, a healthy and strong nuclear enrichment program is of vital national interest. The enrichment program must be able to respond to free market forces, which determine the role of the U.S. enrichment program in the world market.

When the U.S. Government enjoyed a monopoly position in the market for enrichment services, it could freely establish prices and the conditions for the sale of enrichment services. However, DOE continues to make business decisions and to conduct business in a manner that is appropriate for a government agency holding a monopoly, but not appropriate for a commercial entity facing competitive pressures. Prices must go down in order for DOE to retain its most valuable asset—its customers. The DOE programs must be re-

structured to provide the maximum degrees of flexibility in operations, and due to national security and non-proliferation concerns, still maintain accountability to the Government.

A government corporation, with a clearly-defined mission to operate as a continuing, commercial enterprise on a profitable and efficient basis, will provide the enrichment programs with the business-like structure and flexibility that is crucial to the survival of the program. On April 18, 1989, DOE sent to the Congress legislation to restructure the uranium enrichment enterprise as a government corporation. The transmittal letter stated:

> A new enrichment corporation can maintain our share of the existing enrichment market and expand it to win part of * * * [the] new market. In doing so, it not only can preserve an industry that is vital to our economic and national security, but also increase its value. An enrichment corporation with the ability to compete fully in the world market can create a positive cash flow for the Government. * * * It can improve the balance of payments deficit, increase the funds available to the taxpayer, and create more jobs.

A government corporation would achieve the flexibility necessary for the health of this enterprise. GAO, in its October 1987 report, described the conditions where a new government corporation is justified:

(1) performance of a business function requiring many transactions with the private sector;

(2) the potential ability to be self-sustaining; and

(3) the need for greater financial flexibility than the appropriations process permits.

As stated in the report, GAO supports a government corporation for the enrichment program because such a corporation would meet the criteria listed above and because many of the legislative, budgetary, and financial policies imposed on the enrichment program management are inconsistent with modern business practices.

In its May 1990 report, Smith Barney also endorsed creating a government corporation to operate the enrichment enterprise. Smith Barney identified five constraints now imposed on the enterprise by virtue of being operated by DOE from which it would be freed if operated by a government corporation. They are:

(1) existing contracting and pricing inflexibility;

(2) the Government's short-term budget and planning process;

(3) conflicting Congressional mandates and Administrative objectives;

(4) a lengthy and complex decision-making process; and

(5) the lack of a single, coordinated management structure that can establish and efficiently implement both short-term and strategic goals.

B. URANIUM INDUSTRY

Any legislation designed to revitalize the enrichment enterprise must also address problems besetting the domestic uranium mining

industry. This once strong industry has suffered from the cancellation of over 100 nuclear power plants during the 1970s and 1980s, excess inventories, and foreign competition. As a result of these factors, uranium prices have fallen from over $43 per pound in 1978 to $9 per pound in 1989; employment has fallen from 21,951 person-years in 1979 to 1,583 in 1989; and the number of mines operating has fallen from 362 in 1979 to 21 in 1989.

Prior to 1964, private ownership of enriched uranium was prohibited by the Atomic Energy Act, and the domestic uranium mining and milling industry was primarily dependent upon purchases by the Federal Government for military purposes. However, in the mid-1960's, military requirements for uranium declined and the demand for uranium was driven by the emerging nuclear power industry.

In 1964, Congress passed the Private Ownership of Special Nuclear Materials Act. The two principal purposes of the 1964 act were termination of mandatory government ownership of special nuclear materials and authorization for the Atomic Energy Commission (AEC), DOE's predecessor, to provide uranium enrichment services to utility customers. The act further encouraged the commercial use of uranium and marked the beginning of the commercial uranium mining and milling market.

To promote this fledging industry, with its important national security interests, the 1964 act provided for the protection of the domestic uranium industry from foreign competition. The 1964 act amended the Atomic Energy Act of 1954 by adding section 161v. to give the AEC the responsibility for "maintaining a viable domestic industry." That section provides that to the extent necessary to assure the maintenance of a viable domestic uranium industry, the Government is prohibited from enriching foreign uranium for domestic use. The purpose of this provision was to aid in the transition from a Government-dominated market to a commercial market.

In 1966, in order to promote the domestic uranium mining industry, the AEC determined that is was necessary to prohibit the enrichment of foreign uranium for domestic use. By 1974, the AEC determined that the uranium industry had been established sufficiently such that the enrichment restriction could be removed in stages. As of 1984, there were no longer restrictions on the enrichment of foreign uranium for domestic use at Government-owned facilities. However, the original directive of section 161v. to maintain a viable domestic uranium industry remains.

Between 1966 and 1983, while the report restrictions on uranium were in force, there were no protests alleging a violation of the General Agreement on Tariffs and Trade (GATT). The reason for the lack of protests presumably reflects the exemption of fissionable material under Article 21 of the GATT. Article 21 states:

> Nothing in this Agreement shall be construed * * * (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests (i) relating to fissionable materials or the materials from which they were derived; * * *

In 1983, in the Nuclear Regulatory Commission Authorization Act of 1982 (Public Law 97-415), Congress added section 170B to the Atomic Energy Act. Section 170B requires the submission to Congress of a comprehensive review by the Secretary of Energy of the U.S. uranium mining and milling industry and a determination of the viability of the industry. DOE published the criteria for evaluating industry viability in the Federal Register on October 6, 1983. These criteria include: resource capability, supply response capability, financial capability, and import commitment dependency.

The first report pursuant to section 170B reviewed the uranium industry's viability for the year 1983, and was transmitted to Congress in May 1984. Subsequently, the Secretary of Energy issued a determination of the viability of the domestic uranium mining and milling industry for 1983 as also required by section 170B. However, in 1984, 1985, 1986, 1987, 1988, and 1989, the Secretary, in accordance with section 170B, declared the industry to be not viable based on reviews made of these calendar years. There is no expectation that this assessment will improve in the 1990 report, which has yet to be released.

DOE's Energy Information Administration (EIA) found, in its 1989 report, that annual domestic uranium production was nearly 14 million pounds. This corresponds to only about one-third of civilian domestic requirements. The EIA also found employment down to 1,583 person-years in 1989 from 2,141 person-years in 1988 and 18,400 person-years in 1980, a decline of over 91 percent during the decade. Only 3 out of 14 mills were operating in 1989. The production of these 3 mills represents only 12 percent of the total available U.S. mill capacity.

Inports of uranium in 1984, 1985, 1986, 1987, 1988, and 1989 represented respectively 44.2, 34.4, 43.8, 52.1, 50.8, and 34.7 percent of U.S. requirements. EIA projects that imports will continue to rise to approximately 76 percent of U.S. requirements by 1995-96 and then decline gradually to 64 percent by the year 2000.

When the import level exceeds 37.5 percent of actual or projected domestic requirements for any consecutive two-year period as it did in 1986 and 1987, section 23(b) of Public Law 97-415 provides that the Secretary of Energy shall request the Secretary of Commerce to investigate the effects on national security of these uranium imports, pursuant to the Trade Expansion Act of 1962. The Secretary of Commerce completed the required report on September 26, 1989. The report concluded that uranium was not being imported in quantities or under circumstances as to threaten national security. The President approved the Secretary's finding that no Presidential action to restrict imports was required.

Previously, in 1985, the United States Trade Representative was asked to study the uranium issue and determine what actions could be taken under U.S. trade laws to aid the domestic uranium industry. Following a three month interagency review, the Trade Representative, Clayton Yeutter, recommended in December 1985 that no action be taken to restrict imports of uranium under existing law. Representative Yeutter concluded that the industry's problems are not caused by imports more than any other cause, and rejected any government-initiated proceeding under section 201 of

the Trade Act of 1974. The Trade Representative's view was that the principal cause of the decline of the domestic uranium industry is a failure of demand resulting from delay and cancellation of nuclear reactors, and is complicated by discoveries in Canada of high-quality, lower-cost ores that give Canada a long-term competitive advantage over U.S. producers.

The Uranium Producers of America (UPA) disagreed strongly with the Trade Representative's conclusions. The UPA believed that a large portion of the industry's decline stemmed from the increasing role that imported uranium is playing in the domestic market. In addition, UPA contended that much of the Canadian price advantage derives from direct government subsidization, not from inherently superior ore quality.

The UPA believed that DOE's 1984 actions did not comply with the requirements of section 161v., and that restrictions of enrichment of foreign-source uranium was required by law and would result in significant benefits to the domestic uranium industry.

At the time of enactment of section 161v., the United States was the sole country providing commercial enrichment services. Thus, a restriction on U.S. enrichment of foreign uranium for domestic use would have increased domestic uranium demand. Today, however, a ban on DOE enrichment of foreign uranium, as mandated by the AEA upon a finding of non-viability, may not achieve the result originally intended because utilities can circumvent the AEA restriction by seeking enrichment services overseas. Circumvention of its restriction may not significantly aid the domestic mining industry, and could destroy the DOE's enrichment business, and could potentially reduce the market share of the domestic uranium industry if DOE's customers take their enrichment business overseas and purchase their natural uranium overseas as well.

In December 1984, Western Nuclear, Inc. and two other uranium producers sued DOE charging that DOE has not fulfilled its obligations under section 161v. to keep the industry viable. Following lower court decisions in favor of the producers, on June 15, 1988, the Supreme Court ruled that:

> Section 161v. does not require DOE to restrict the enrichment of foreign uranium where such restriction would not achieve the statutory goal of "assuring the maintenance of a viable domestic uranium industry" for the statute ties the amount of restriction to be imposed to the achievement of that goal.

The Supreme Court remanded the case to the lower court, where it was withdrawn without prejudice by the producers in January 1989.

Notwithstanding the decision of the Supreme Court, DOE's ability to control the quantities of foreign origin uranium to be enriched for domestic use was severely limited by approval of the U.S.-Canada Free Trade Agreement in 1988. This agreement provides that for purposes of section 161v., Canadian origin uranium shall be treated identically to domestic origin uranium. In 1988, approximately 32 percent of the uranium delivered by domestic customers to DOE for enrichment came from Canada.

Congress has considered a viable domestic uranium industry to be vital to the U.S. national defense and security. While dependency on other nations for strategic minerals generally, and for uranium in particular, may bring some short-term economic gain, it also involves long-term economic and energy security risks to the national common defense and security.

In order to revitalize the domestic uranium industry, the erosion of the domestic uranium market must be reversed. Section 161v. of the Atomic Energy Act, with its ineffective sanction against the enrichment of foreign uranium, must be replaced by a national policy which will encourage the revitalization of the U.S. mining and milling industry and the domestic enrichment programs, without adverse effects on the viability of nuclear electric power.

C. URANIUM MILL TAILINGS

S. 210 also addresses some unfinished business resulting from the generation of uranium mill tailings wastes pursuant to federal contracts during the 1940s, 1950s, and 1960s. Uranium mill tailings are the byproduct of the extraction of uranium from mined uranium ore. The tailings contain quantities of radioactive materials (uranium, thorium and radon) that are considered a health and environmental risk.

The Uranium Mill Tailings Radiation and Control Act (UMTRCA) was passed by Congress in 1978. The act provided for the stabilization and reclamation of mill trailing in an environmentally sound manner. Title I of the act dealt with "inactive" mill tailings sites; that is, those sites that were no longer in operation as of January 1978. Since virtually all of the tailings from the 22 sites under title I were produced as a result of Federal activities, UMTRCA assigned to DOE the responsibility for cleanup of the sites. Cleanup costs totalling almost $1 billion are apportioned 90:10 between the Federal Government and the States in which these sites are located.

Title II of UMTRCA deals with the so-called "active" uranium mill tailings sites; that is, those sites in operation as of January 1978. Responsibility for reclamation of the active sites was assigned to the site owners. At the time UMTRCA was enacted, the estimated total cost of reclaiming all active sites, including those containing mill tailings generated under Federal contracts was $200 million.

In 1979, in response to a request from the Committee on Energy and Natural Resources, the General Accounting Office (GAO) issued a report entitled "Cleanup of Commingled Uranium Mill Tailings: Is Federal Assistance Necessary?" (DMD79-29), in which GAO recommended that Congress provide assistance to the active site owners for the reclamation of tailings generated under federal contracts. This recommendation was based on several factors, including the Federal Government's role as buyer of the uranium, the fact that possible hazards from tailings were not recognized at the time they were produced, and the fact that government procurement contracts did not require reclamation of tailings. The GAO concluded that the mill owners had acted in good faith and should not bear subsequent costs of reclamation by themselves.

Congress expressed interest in assisting reclamation at active sites in a 1981 amendment to the National Security and Military Applications provisions of the Nuclear Energy Authorization Act (Public Law 96–540). This amendment required DOE "to develop a plan for a cooperative program to provide assistance in the stabilization and management of uranium mill tailings which have resulted from ore processing to extract uranium under contract with the United States for use primarily in defense programs, and which are now commingled with other tailings." The plan was to include a "methodology for establishing the extent of Federal Assistance appropriate to meet costs for stabilizing and managing such tailings at each site in order to comply with a requirement of Federal law or regulations imposed after termination of such Federal contracts."

The plan mandated by Congress was submitted on June 30, 1982, in DOE report entitled "Plan for Stabilization & Management of Commingled Uranium Mill Tailings" (DOE/DT–0011). The report recommended various cost-sharing approaches for different categories of reclamation activities. It also outlined a cooperative program of federal assistance for the stabilization and management of defense-related mill tailings. The report did not recommend whether legislation authorizing an assistance program should be adopted, but offered DOE's full cooperation in implementing such a program.

Cost-sharing between the site owners and the Federal Government is an equitable approach to the problem of reclamation of uranium mill tailings. In order to establish the Federal Government's contribution to this effort, the fraction of the mill tailings generated as a result of purchases made by the Federal Government must be ascertained. During the 100th Congress, DOE testified to the Subcommittee on Energy Research and Development that the Federal Government contributed to the generation of approximately 30 percent of the total tailings at several of the active sites. It is therefore equitable that the Government contribute to approximately 30 of the cost of the reclamation.

The "active" sites that contain mill tailings generated under Federal contracts are:

Mill	Location
Ford Mill	Ford, Washington
Lucky McMill	Riverton, Wyoming
East Gas Hills Mill	Riverton, Wyoming
Split Rock Mill	Jeffrey City, Wyoming
Petrotomics Mill	Shirley Basin, Wyoming
American Nuclear Mill	Riverton, Wyoming
Moab Mill	Moab, Utah
Ambrosia Lake Mill	Grants, New Mexico
Bluewater Mill	Grants, New Mexico
Canon City Mill	Canon City, Colorado
Uravan Mill	Uravan, Colorado
Edgemont Mill	Edgemont, South Dakota

DOE testified, on March 9, 1987, before the Subcommittee on Energy Research and Development, that reclamation costs are esti-

mated to be between $1 billion and $2 billion. The legislation establishes $4.50 per short ton of mill tailings as a limit to the Federal Government contribution at each commingled uranium site. As there are approximately 60 million short tons of uranium mill tailings at the commingled uranium sites, the sum of $270 million is established as the federal share.

In 1986, the National Academy of Sciences (NAS) released a report, *Scientific Basis for Risk Assessment and Management of Uranium Mill Tailings,* which reconsiders the approaches and standards of the existing regulatory system for mill tailings. The report concluded that a low level of institutional oversight will be needed to ensure long term control of tailings, that risk management strategies must be site specific, and that health risks to individuals from radon from tailings piles could be significant for those who live nearby (less than 1 kilometer), but are trivial for the average U.S. citizen. The legislation makes no change in the existing regulatory system for uranium mill tailings reclamation.

In light of this history, vesting responsibility for remedial action with the site owners and establishing a joint funding system is a fair and equitable approach to the essential task of mill tailings reclamation. Such a system recognizes that new reclamation requirements have been imposed long after the uranium was produced for defense purposes. In recognition of this need, the Committee reported legislation in the 99th and 100th Congresses that provided for a Federal contribution to mill tailings reclamation. In the 100th Congress, this legislation was passed by the Senate on two occasions (S. 2097 and H.R. 1315).

Thorium mill tailings, like uranium mill tailings, are the byproduct of the extraction of thorium from mined ore. The West Chicago Rare Earth Facility, located in West Chicago, Illinois, was operated from 1931 until 1973. About 71 percent of the approximately 650,000 metric tons of wastes to be disposed of from site operations were generated pursuant to federal contracts. As was the case with the uranium mill tailings, the stabilization of thorium mill tailings must be in accordance with UMTRCA and the regulations that have been promulgated pursuant to that Act.

Cost-sharing between the thorium site owner and the Federal Government, the primary customer of this product, provides an equitable approach to financing the reclamation of this site. The justifications for a federal contribution to the thorium site cleanup are identical to those for uranium mill tailings—namely, that the Federal Government intended to pay the costs associated with the production of materials for federal programs.

To date, approximately $36 million has been expended for reclamation projects by the owner of the West Chicago site. The Nuclear Regulatory Commission has recommended on-site reclamation of the thorium tailings as being the safest and most effective method of reclamation. In the Supplement to the Final Environmental Statement for the West Chicago site, the NRC projected the remaining on-site stabilization costs at $19 million, with a range of $12 to $27 million.

In addition, a contribution of $4.4 million to a continuing care fund would be required. If the thorium tailings were to be removed from the site for disposal, the NRC estimated that the cost would

average about $62 million, with a range of $35 to $90 million. In addition, a contribution of $2.0 million to a continuing care fund would be required.

The legislation provides for a federal contribution of up to $30 million for reclamation of the West Chicago thorium site. This amount recognizes that reclamation costs at the West Chicago site are substantial because: (1) the site is located in a major metropolitan area; and (2) the site is small and therefore does not allow the advantages of economies of scale in reclamation.

IV. Legislative History

In the past three Congresses, the Committee has reported legislation dealing with uranium mining, reclamation, and enrichment issues that has been similar to S. 210. In the 100th and 101st Congresses, legislation similar to S. 210 was passed by the Senate.

99th Congress

Beginning five years ago, in 1986, in the 99th Congress, the Committee reported S. 1004 (Senate Report 99-464), a bill that addressed the uranium mining, reclamation and enrichment issues. The bill was cosponsored by Senators Domenici, Simpson, Bingaman, Wallop, Garn, and Hatch.

100th Congress

In the 100th Congress, the Subcommittee on Energy Research and Development held oversight hearings on March 9 and 13, 1987 (Hearing Report 100-327) on the status of the domestic mining and milling industry and on the status of the DOE enrichment program. The Subcommittee also held legislative hearings on May 4, and May 8, 1987 (Hearing Report 100-347) on the uranium and uranium enrichment bills introduced by Senators Ford and Johnston (S. 1084 and Amendment No. 176) and Senators Domenici, Bingaman, Simpson and Wallop (S. 1100 and Amendment No. 177).

A comprehensive uranium bill was prepared at the request of the Chairman as a substitute for the above bills and amendments, and was reported by the Committee on October 1, 1987 as S. 1846 (Senate Report 100-214). Subsequently, on February 25, 1988, the Committee reported an original bill, S. 2097, to establish a government corporation to manage the Nation's uranium enrichment program. S. 2097 was passed by the Senate on March 30, 1988.

On August 8, 1988, the Senate again approved uranium and enrichment legislation similar to S. 2097, by adopting it as an amendment to the Nuclear Regulatory Commission Authorization Act for Fiscal Years 1988 and 1989 (H.R. 1315).

At the end of the 100th Congress, the House adopted H. Res. 603 returning S. 2097 back to the Senate, declaring it to be unconstitutional because Titles I and II would have raised revenue, and revenue raising legislation must, under the Constitution, originate in the House.

101st Congress

In the 101st Congress, S. 83, a bill to establish the amount of the enrichment enterprise's unrecovered cost, was introduced on Janu-

ary 25, 1989 by Senators Ford and Johnston. Amendment No. 6 to S. 83, to establish a government corporation to manage the nation's uranium enrichment program was introduced on February 23, 1989. Amendment 10 to S. 83 provides for the revitalization of the domestic mining industry and provides a system of financing for the reclamation of uranium mill tailings and was introduced on March 17, 1989 by Senators Domenici, Bingaman, Simpson, Wallop, Garn and Hatch. The provisions of Amendments Nos. 6 and 10 are virutally identical to provisions included by the Senate on August 8, 1988 as part of H.R. 1315.

On April 18, 1989, the Bush Administration sent proposed legislation to the Congress to establish a government corporation to manage the nation's uranium enrichment program. This bill, S. 847, was introduced (by request) by Senators Johnston and McClure on April 19, 1989.

Hearings were held in the Subcommittee on Energy Research and Development on Amendment 6 to S. 83 and S. 847 on April 19 and 20, 1989 and on Amendment 10 to S. 83 on May 11, 1989.

On June 7, 1989, the Committee approved an amendment in the nature of a substitute to S. 83, which included both Amendment 6 and Amendment 10, and ordered it reported to the Senate (S. Rept. 101-60). On July 20, 1989, the Senate passed S. 83, as amended, and sent it to the House. The House took no action on the bill.

On September 19, 1990, the Committee reported S. 2415, a bill to encourage solar, wind, waste, and geothermal power production, with an amendment that incorporated the text of S. 83. The Senate passed S. 2415, as amended, on September 26, 1990. Most of the uranium provisions were dropped in conference. A few provisions dealing with the licensing of uranium enrichment facilities were included in the conference report on H.R. 4804, the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (Public Law 101-575), which was signed into law on November 15, 1990.

On October 15, 1990, the Commitee incorporated the test of S. 83, with amendments, in its rcommendations to the Senate Budget Committee pursuant to the Concurrent Resolution on the Budget for Fiscal Year 1991. On October 19, 1990, the Senate passed H.R. 5835, the Concurrent Resolution on the Budget, Fiscal Year 1991, after striking all after the enacting clause and substituting the text of S. 3209, which included legislation similar to S. 83. The uranium provisions were dropped in conference, however, upon assurances from House conferees that uranium legislation would be considered in the House early in the 102nd Congress.

102nd Congress

S. 210 was introduced on January 15, 1991 by Senators Ford, Johnston, Wallop, Domenici, and McConnell. The text of S. 210 as introduced was virtually identical to the language passed by the Senate in S. 83, S. 2415, and H.R. 5835 in the 101st Congress. The text of S. 210 was also included as Title XIV of S. 341, the National Energy Security Act of 1991.

On March 5, 1991, the Subcommittee on Energy Research and Development held a hearing on S. 210.

V. Committee Recommendation

The Committee, in open business session on April 23, 1991, by unanimous consent of a quorum present, recommends that the Senate pass S. 210, if amended as described herein.

VI. Committee Amendments

The Committee approved 55 amendments to the bill. All but Amendments 39–42, 53, and 55 are technical and conforming amendments.

Amendments 39–42 and 53 were adopted by unanimous consent on May 22, 1991 in order to remove direct spending authority from the bill. Amendments 39–42 delay until fiscal year 1997 the USEC's authority to make payments in lieu of taxes to state and local governments. Amendment 53 provides that all expenses associated with setting up the USEC and transferring the enrichment enterprise from DOE to the USEC are subject to appropriation.

Amendment 55 adds to Title II a new Subtitle D of the bill to address the problem of Soviet sales of uranium (including enriched uranium) at prices below the cost of production.

Amendment 55 requires the United States International Trade Commission (ITC) to investigate quantities of uranium or enriched uranium being exported and offered for sale by non-market economy countries, and whether it is being offered at prices below its production cost. If the ITC finds that uranium, enriched uranium, or enrichment services are being offered by non-market economy countries at prices below production cost, the Administration is required to report to Congress on actions being taken by the Federal Government to discourage such pricing practices.

Amendment 55 also requires the owner or operator of any civilian nuclear power plant to report to the Secretary of Energy the country of origin and seller of uranium or enriched uranium it acquires or services it contracts for. The Secretary is also directed to encourage state utility regulatory authorities to consider the importance of maintaining a viable domestic uranium industry when deciding whether to allow recovery of uranium costs through rates charged to customers.

In addition, Amendment 55 authorizes the United States Enrichment Corporation (and the Secretary of Energy during the period between the date of enactment and the date the Corporation takes over the enrichment enterprise) to purchase enriched uranium at prices below the Corporation's (or the Department's as appropriate) production costs if necessary to reduce its production costs and maintain competitive prices. In the event that the Corporation purchases enriched uranium at prices below its production cost and uses it to supply enrichment customers, any uranium obtained from customers for feed material may only be used to rebuild the Corporation's inventory or for overfeeding.

VII. Section-by-Section Analysis

TITLE I—THE URANIUM ENRICHMENT ACT OF 1991

SHORT TITLE

Section 110 entitles Title I of S. 210 the "Uranium Enrichment Act of 1991."

REPEAL OF AEA SECTION 161V.

Section 111 strikes subsection 161v. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(v)), which contains pricing requirements for the Department of Energy's (DOE) enrichment business.

ADDITION OF NEW TITLE

Section 112 redesignates the Atomic Energy Act of 1954 (AEA) as Title I of that Act and adds a new Title II pertaining to the United States Enrichment Corporation (USEC). Section 112 adds sections 1101 through 1703 to the AEA, as discussed below.

FINDINGS

Section 1101 of the new AEA Title II sets forth congressional findings on the uranium enrichment program. In the judgment of the Committee, changes in the international market for enriched uranium necessitate a restructuring of the federal uranium enrichment enterprise as provided by the new Title II. It is essential to the national interest of the United States that the enterprise now adopt stable, predictable fiscal and management policies and practices that will enable it to compete in the international market, while continuing to meet the paramount objective of ensuring the nation's common defense and security.

DEFINITIONS

Section 1201 defines terms used in AEA Title II.

ESTABLISHMENT OF THE CORPORATION

Section 1202 establishes the USEC as a wholly-owned government corporation subject to the Government Corporation Control Act (31 U.S.C. 9101–9109) and as an agency and instrumentality of the United States. Subjecting the USEC to the Government Corporation Control Act imposes on the USEC certain requirements relating to budgets, audits, accounts, and financial obligations set forth in that Act. Defining the USEC as an agency and instrumentality of the United States subjects the Corporation, except as otherwise provided, to laws governing federal agencies.

PURPOSES

Section 1203 defines the mission of the USEC by setting forth the purposes for which it is created.

Subsection a. states that the USEC is to acquire the enterprise's materials and facilities from DOE.

Subsection b. states that the USEC is to operate the enterprise's enrichment facilities and, as business conditions warrant, to expand or construct new ones.

Subsection c. states that the USEC is to market and sell uranium and enrichment services to DOE and domestic and foreign persons.

Subsection d. states that the USEC is to conduct research and development in furtherance of the enterprise.

Subsection e. states that the USEC is to operate the enterprise like a for-profit, private-sector business and to "maximize the long-term economic value" of the corporation. The latter phrase makes it clear that the USEC is not to seek short-term profits at the expense of the corporation's long-term viability.

The maintenance of some domestic enrichment capability is essential for purposes of maintaining energy security. The Committee thus expressly rejects the so-called "harvest" scenarios in which the enrichment enterprise would be milked for short-term profits at the expense of long-term economic viability.

Subsection f. states that the USEC is to operate as a self-financing corporation, without federal appropriations or financing.

Subsection g. states that the USEC is to maintain a reliable and economical domestic source of enrichment services.

Subsection h. states that activities of the USEC are not to endanger the public health and safety.

Subsection i. states that the USEC is to further the Nation's common defense and security by producing nuclear fuel for the U.S. Navy and helping to achieve U.S. nuclear nonproliferation goals.

Subsection j. states that the USEC is to take other lawful actions in furtherance of the foregoing purposes.

OFFICES

Section 1301 requires the USEC to maintain an office in the District of Columbia for legal purposes but permits it to establish additional offices elswhere.

POWERS AND DUTIES

Section 1401 sets forth specific powers and duties of the USEC.

Subsection a. preserves contracts for the operation and management of the enrichment plants in existence on the date of enactment, substituting the USEC for DOE as a party to those contracts.

Subsection b. authorizes the USEC to conduct such research and development activities on uranium separation as it deems necessary for business purposes. Although the specific research and development that must be accomplished is left to the judgment of the Corporation, the Committee intends that it be sufficient to maintain the long-term competitiveness of the Corporation.

Subsection c. permits the USEC to receive uranium only from, and to deliver uranium only to, persons who hold the necessary licenses from the Nuclear Regulatory Commission (NRC) under the AEA.

Subsection d. permits the USEC to enter into enrichment service contracts only with customers who hold the necessary licenses from the NRC under the AEA.

Subsection e. permits the USEC to provide uranium or enrichment services to DOE for military applications under 42 U.S.C. 2121 or for other DOE programs notwithstanding the prohibition in 42 U.S.C. 2077(e) against making uranium available for military applications and notwithstanding federal procurement restrictions in 31 U.S.C 1535.

Subsection f. authorizes the USEC to grant licenses for the use of its patent rights and to collect rents or royalties for the use of its property.

GENERAL POWERS

Section 1402 sets forth general corporate powers of the USEC.

Subsection a. provides that the USEC will continue until dissolved by law.

Subsection b. authorizes the USEC to use a corporate seal.

Subsection c. permits the USEC to be represented by its own attorneys (rather than the Attorney General under 28 U.S.C. 519) in judicial and administrative proceedings.

Subsection d. permits the USEC to indemnify its officers and employees against liabilities incurred in the course of their official duties.

Subsection e. permits the USEC to adopt corporate bylaws.

Subsection f.(1) permits the USEC to own or dispose of real and personal property without regard to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 note), which would otherwise apply to procurement and property disposal.

Subsection f.(2) prescribes advertising requirements for USEC contracts (instead of the advertising requirements in the Federal Property and Administrative Services Act of 1949, 41 U.S.C. 252).

Subsection g. permits the USEC to use the personnel of other federal agencies, personnel of state or local governments, or uncompensated volunteers (without regard to the prohibition on the use of voluntary services in 31 U.S.C. 1342).

Subsection h. permits the USEC to conduct business transactions with other federal agencies, state and local governments, and private-sector entities.

Subsection i. authorizes the USEC to manage its financial transactions subject to the Government Corporation Control Act and other applicable law.

Subsection j. exempts the USEC from apportionment of appropriations under 31 U.S.C. 1511-1519.

Subsection k. authorizes the USEC to settle legal claims.

Subsection l. authorizes the USEC to exercise the Federal Government's power of eminent domain so that it may acquire property in furtherance of its business.

Subsection m. gives the USEC the same priority as other federal agencies for purposes of collecting debts from bankrupt, insolvent, or deceased debtors.

Subsection n. permits the USEC to withhold from disclosure under the Freedom of Information Act information it deems "Government Commercial Information."

Subsection o. authorizes the USEC to call upon the General Services Administration (GSA) to perform the same services GSA furnishes other federal agencies.

Subsection p. permits the USEC to accept gifts and donations.

Subsection q. authorizes the USEC to execute legal documents.

Subsection r. provides that judgments or settlements of legal proceedings against the USEC are to be paid out of its own funds and not out of the Judgment Fund (31 U.S.C. 1304). Subsection r. also exempts tort claims against the USEC from the Federal Tort Claims Act, except in the case of claims arising out of a nuclear incident that occurred prior to the licensing of the Portsmouth or Paducah gaseous diffusion plants under section 1601. The Federal Tort Claims Act provides other federal agencies with legal defenses to tort claims. (For example, the United States cannot be held liable for harm resulting from discretionary policy decisions; it can only be held liable for acts of negligence; it cannot be subjected to jury trials; and claimants must first seek compensation from the responsible agency before going to court.) By exempting the USEC from the protections of the Federal Tort Claims Act, the USEC will be treated like a private defendent rather than a federal agency in legal proceedings for harm caused by the USEC to others.

CONTINUATION OF CONTRACTS, ETC.

Section 1403 continues under the USEC DOE's contracts, policies, and position in pending lawsuits.

Subsection a. provides that all contracts with DOE pertaining to the enrichment business that were entered into before enactment of S. 210 continue in effect with the USEC substituted for DOE. Specifically, the USEC is bound to honor the terms of the December 18, 1977 Settlement Agreement with the Tennessee Valley Authority (TVA), by which DOE agreed to pay TVA capcity charges for unused electricity under two prior power contracts. The Committee expects the Corporation to make payments under such settlement agreement in accordance with its terms, including the schedule for such payments, and otherwise to ensure that no terms of the settlement agreement is breached.

Subsection b. continues in effect all DOE rules and orders pertaining to the enrichment business until changed by the USEC (or a court or Congress).

Subsection c. substitutes the USEC for DOE and continues in effect all pending judicial proceedings pertaining to the enrichment business.

LIABILITIES

Section 1404 provides that any liabilities attributable to the operation of the enterprise prior to the date of enactment of S. 210 will remain liabilities of the Federal Government. Notwithstanding section 1403c., DOE will remain the defendant in any action seeking to impose liability for such a claim and the United States will continue to be represented by the Justice Department. The Committee is unaware of any actual liabilities that fall within this category.

ADMINISTRATOR

Section 1501 provides for an Administrator and sets out his powers and duties.

Subsection a. vests the responsibility for managing the USEC in the Administrator. It also provides that the Administrator is to be appointed by the President, by and with the advice and consent of the Senate. Pending confirmation of an Adminstrator, subsection a. permits the President to appoint a federal officer or employee to serve as Acting Administrator.

Subsection b.(1) makes the Administrator the chief executive officer of the USEC and makes him or her solely responsible for the management and direction of the USEC. It also authorizes the Administrator to appoint other officers and employees and define their duties.

Subsection b.(2) fixes the Administrator's term of office at six years but allows for reappointment for additional six-year terms.

Subsection b.(3) requires the Administrator to take an oath of office, consistent with 5 U.S.C. 3331.

Subsection b.(4) provides that the Administrator shall be paid at the rate set by the President under section 1503d. or, in the absence of a presidential determination, at Executive Level I ($138,900 as of February 11, 1991).

Subsection b.(5) requires the Administrator to be a citizen of the United States.

Subsection b.(6) authorizes the Administrator to designate an officer of the USEC to act in his or her capacity in the event of absence or incapacity.

Subsection b.(7) authorizes the President alone to remove the Administrator from office and only for neglect of duty or malfeasance in office. The President must give Congress thirty days prior notice of the reason for removing the Administrator before the removal becomes effective.

Subsection c.(1) authorizes the Secretary of Energy to exercise general supervision over the Administrator in matters of (A) the common defense and security and (B) health, safety, and the environment.

Subsection c.(2) gives the Administrator sole authority over fiscal matters, including the power to set the amount of dividends under section 1506c., notwithstanding the Government Corporations Control Act (31 U.S.C. 9104(a)(4)), which leaves to Congress the power to declare dividends. Other than the supervisory authority of the Secretary with respect to common defense and security and health, safety and the environment, the Committee does not intend that the Secretary, the Director of the Office of Management and Budget, or any other officer or employee of the Executive Branch exercise any authority over the Administrator, either directly or indirectly.

DELEGATION

Section 1502 authorizes the Administrator to delegate powers and duties to subordinate officers and employees.

CORPORATE BOARD

Subsection 1503 establishes a Corporate Board to oversee operation of the USEC. While the Committee is not willing to vest the power of the USEC in a board of directors, it concludes that the performance of the Corporation should be reviewed regularly by a collegial body having expertise in management and disciplines relevant to the enrichment enterprise. This function will be exercised by the Corporate Board.

Subsection a. provides that the Board is to be composed of five members, appointed by the President without Senate confirmation. The President is also to designate one of the five as the Chairman. Because a first-hand understanding of the needs of the Corporation's customers will be critical to its success, at least one member must concurrently be or previously have been a management employee of an electric utility.

Subsection b.(1) directs the Corporate Board to review the USEC's policies and performance and advise the Administrator and Secretary of Energy. In addition, the Committee believes that, when appropriate, the Secretary and the Administrator should be able to refer long-term policy matters and other issues to the Corporate Board for recommendation.

Subsection b.(2) authorizes the Board to recommend the removal of the Administrator to the President. Any such recommendation must be transmitted to the President through the Secretary of Energy, who is to attach his own views on the recommendation.

Subsection c. requires that members of the Board have access to all USEC documents.

Subsection d. authorizes the Board to recommend to the Secretary of Energy the amount of compensation to be paid to the Administrator and any officer eligible to be paid in excess of Executive Level II ($125,100 as to February 11, 1991) under section 1504(b). The Secretary of Energy is to transmit the Board's recommendation to the President with his or her own recommendation. In the event the Board has two or more vacancies, the Secretary may make the recommendation alone. The President may set the compensation of the Administrator and the senior officers without regard to the recommendation of the Secretary or the Board.

Subsection e. provides the following initial terms of office for members of the Corporate Board:

the Chairman—5 years;
one member—4 years;
one member—3 years;
one member—2 years; and
one member—1 year.

Subsequent terms will be for five years. Members must be U.S. citizens and no more than three can belong to one political party.

Subsection f. authorizes the President to fill vacancies for the remainder of the applicable term. Upon expiration of a term, the member may continue to serve for up to one year or until his or her successor assumes office, whichever occurs first.

Subsection g. subjects members of the Board to conflict of interest laws and regulations (including 18 U.S.C. Chapter 11 and 5 U.S.C. Appendix—Executive Personnel Financial Disclosure Re-

quirements). Because members of the Board are unlikely to perform Board duties on more than 130 days during any 365 consecutive days, they are expected to qualify as "special Government employees," as defined in 18 U.S.C. 202(a) for purposes of federal conflict of interest laws. Subsection g. exempts the Board from the Federal Advisory Committee Act (5 U.S.C. Appendix 2). The Committee expects the President to take such action under 18 U.S.C. 208(b) as necessary to ensure that the provisions of 18 U.S.C. 208(a) do not apply to any members of the Corporate Board.

Subsection h. prescribes meetings of the Board at the call of the chair but at least once every three months. The Administrator or his designee is to attend all Board meetings.

Subsection i. provides compensation of Board members not otherwise paid as a federal employee at a per diem rate equal to Executive Level III ($115,300 as of February 11, 1991). All Board members are to be reimbursed for reasonable expenses incurred in the course of official duties.

Subsection j.(1) requires the Board to report at least annually to the Administrator and to send copies to the President, the Secretary of Energy, and the Congress.

Subsection j.(2) requires the Administrator to respond to the report within 90 days, stating his plans for implementing, or reasons for not implementing, the Board's recommendations.

EMPLOYEES

Section 1504 governs the hiring and compensation of officers and employees of the USEC.

Subsection a. makes officers and employees of the USEC federal employees. The effect of this provision subjects USEC employees to all civil service laws except as otherwise provided by S. 210.

Subsection b. authorizes the Administrator to appoint all USEC personnel, define their duties, and set their salaries in accordance with the federal pay system. Upon recommendation by the Secretary of Energy and the Corporate Board and approval by the President, the Administrator may appoint up to ten officers to receive pay in excess of Executive Level II ($125,100 as of February 11, 1991), but not more than eighty percent of the Administrator's salary. No other USEC employees may be paid in excess of Executive Level II.

The last sentence of subsection a. excepts USEC employees from the competitive service (as defined in 5 U.S.C. 2102). The next-to-the-last sentence, however, requires the USEC to follow merit system principles comparable to those of 5 U.S.C. 2301.

The Committee intends that all officers and employees of the Corporation be subject only to ultimate supervision by the Administrator. Although this directive is not intended to prevent a normal chain of command within the Corporation, it does preclude officers and employees from being subject to the supervision of anyone outside the Corporation, including the Secretary of Energy.

Subsection c. provides for inclusion of USEC employees in the Federal Civil Service Retirement System and the Federal Employees' Retirement System, as appropriate, on the same terms as other federal employees.

Subsection d. preserves the rights of USEC employees from employment discrimination under applicable federal laws and regulations.

Subsection e. subjects USEC employees to federal laws restricting employee conduct 5 U.S.C. Chapter 73), including the Hatch Political Activity Act.

Subsection f. continues the compensation, benefits, and other employment conditions of employees who transfer to the USEC from other federal jobs until changed by the USEC.

Subsection g. exempts USEC employees who retired from federal civil or military service prior to April 28, 1987 from federal laws prohibiting employment of retirement-aged individuals (5 U.S.C. 3323(a)) and the simultaneous receipt of salary and retirement pay (5 U.S.C. 8344).

PROPERTY TRANSFER

Section 1505 governs the transfer of property from DOE to the USEC.

Subsection a. directs the Secretary of Energy to transfer to the Administrator, upon the latter's request, all federal property relating to the enrichment enterprise without charge.

Paragraph (1) provides for the transfer to the USEC of the gaseous diffusion enrichment plants and equipment at Paducah, Kentucky and Portsmouth, Ohio, and office facilities at Oak Ridge, Tennessee. The gaseous diffusion plant at Oak Ridge and gaseous centrifuge facilities (other than equipment used for replacement parts) in Portsmouth, Ohio are expressly excluded from the transfer and remain with DOE. Paragraph (1) also prohibits DOE from using the Oak Ridge plant to enrich uranium in competition with the USEC. In addition, it provides that the paragraph may not be read to prejudice the consideration of other sites for future enrichment plants.

The Committee believes that, under foreseeable market conditions, the existing gaseous diffusion plant in Oak Ridge, Tennessee and the existing gas centrifuge facilities in Portsmouth, Ohio, cannot be operated profitably. With the exception of equipment needed for replacement parts, these assets are left under the control of DOE. However, the Committee does intend to transfer to the Corporation the enrichment operations office located at the Oak Ridge plant. This office is responsible for operations management of the facilities in Paducah, Kentucky, and Portsmouth, Ohio as well as other functions.

Paragraph (2) directs the Secretary of Energy to transfer the Oak Ridge, Tennessee gaseous diffusion enrichment plant to the USEC when it determines, after the year 2000, that it should be decommissioned.

Paragraph (3) provides for the transfer of property related to research and development of gaseous diffusion technology.

Paragraph (4) provides for the transfer of DOE's stocks of enriched uranium other than highly enriched uranium. It also directs DOE to loan the USEC two metric tons of highly enriched uranium for working inventory.

Paragraph (5) provides for the transfer of DOE civilian stocks of feed materials. It permits the USEC to use stocks of tails (the by-products of the enrichment process) and military feed materials retained by DOE, provided it replaces them or compensates DOE for them. For purposes of paragraph (5), the Committee intends that DOE and the Corporation adopt the allocation contained in a memorandum on the use of DOE inventories dated February 5, 1985, from James W. Vaughan, Jr., Acting Assistant Secretary for Nuclear Energy, and William W. Hoover, Assistant Secretary for Defense Programs, to Donald P. Hodel, Secretary of Energy. A copy of this memorandum is included as Appendix III.

Paragraph (6) provides for the transfer of all other property related to the enrichment enterprise except items needed by DOE.

The final sentence of subsection a. also exempts the transfer of the enrichment plants from section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, commonly known as "Superfund" (42 U.S.C. 9620(h)). The exemption relieves DOE of the Superfund requirement that it disclose in any sales contract or deed conveying the enrichment plants to the USEC information about hazardous substances stored, released, or disposed of at the plants.

Subsection b. directs the Secretary of Energy to grant the USEC DOE's rights in the Atomic Vapor Laser Isotope Separation (AVLIS) technology without charge, and to provide assistance to the USEC on a reimbursable basis to ensure commercial deployment of AVLIS. Subsection b. does not, however, provide for the transfer of any lasers or equipment to the USEC. The Department, which presently contracts with national laboratories for the performance of AVLIS and other enrichment research, is directed to give the Corporation necessary cooperation and support on a reimbursable basis for purposes of arranging the efficient performance of such research in the future. However, nothing in the Act should be construed as restricting the Corporation from funding AVLIS research and development activities as necessary to achieve the purposes of this title.

Subsection c. directs the Secretary of Energy to provide the USEC, without charge, licenses to any inventions and access to any technical information useful to the enterprise.

Subsection d. directs the Secretary of Energy to transfer to the USEC, without further appropriation, all unexpended appropriations, accounts receivable, and monies available relating to the enrichment enterprise.

Subsection e. authorizes the President to transfer, without charge, additional real and personal property to the USEC in furtherance to the enrichment enterprise.

Subsection f. provides that title to depleted uranium resulting from enrichment of uranium by the USEC for DOE shall remain with DOE.

CAPITAL STRUCTURE

Section 1506 governs the capital structure of the USEC.

Subsection a. provides that all of DOE's obligations chargeable to the appropriations transferred to the USEC become liabilities of the USEC upon commencement of operation of the USEC.

Subsection b.(1) directs the USEC to issue capital stock to the United States in an amount representing the current book value of the assets transferred to the USEC. Book value is to be determined from the amount reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect ordinary value changes, such as depreciation, occurring up to the point of transfer. The Committee intends the value of the natural uranium stockpile transferred to the Corporation to be set at original acquisition costs. The Committee does not intend the value of transferred assets to reflect any imputed interest that certain persons have argued has accrued under the existing AEA section 161v. pricing standard.

The Secretary of the Treasury is to hold the stock for the United States, but is to have no voice in the management of the USEC as a result of such role.

Subsection b.(2) prohibits the sale or transfer of the stock without further legislative action.

Subsection c. directs the USEC to pay dividends into the General Fund of the Treasury on the stock. All earnings of the USEC, less amounts retained for business purposes (including research and development expenses, capital investments, and cash reserves), are to be paid to the Treasury as dividends.

In deciding to pay, or not to pay, dividends and in setting the amount of such dividends, the Committee intends that the Administrator use reasonable judgment. On one hand, the Administrator must make the expenditures, investments and reservations of funds necessary to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis. At the same time, however, the Committee expects the Administrator to keep in mind that it is in the interest of the United States to receive a return on the investment represented by the Corporation. Thus, for example, "gold plating" of the Corporation's investments would be contrary to the Committee's intent.

Subsection d. requires the USEC to repay to the Treasury within twenty years an amount deemed to be the "Initial Debt," plus interest. The Initial Debt is established at $364,000,000, which represents the total amount appropriated to the enrichment enterprise between fiscal years 1969 and 1986, less the total amount of revenues received by the enterprise over the same period. (A detailed calculation of the $364 million figure is included in this report as Appendix I.) Were the same calculation performed through fiscal year 1990, it would result in revenues exceeding appropriations by about $657,000,000 and, hence, a net overpayment to the Treasury rather than a debt.

Various parties, notably the General Accounting Office, have asserted in the past that the amount of unrecovered costs of the enrichment program are as large as $11 billion or more under the existing cost-recovery pricing standard set out in AEA section 161v. Although there are those individuals who ascribe some legal validity to these calculations, the Committee does not accept them for the following reasons:

First, as a legal matter, these "unrecovered costs" merely constitute the present basis for pricing enrichment services. Under current law, they do not constitute an actual debt that can be recovered from enrichment customers. Neither the appropriation accounts of the Federal Budget nor those of the Treasury carry any assigned value that is attributable to this so-called "debt."

Second, a large component of unrecovered costs is derived from the initial value assigned to enrichment program assets when the program began commercial operation in 1969. For the most part, investment in these assets was originally made for military purposes, specifically the production of atomic weapons. Thus, the value of these assets represented sunk costs that had nothing to do with the provision of commercial enrichment services.

Third, a major portion of the unrecovered costs asserted by GAO represents imputed interest. Accural of this interest is a matter of administrative practices not statutory law. Furthermore, it does not constitute any actual borrowing by the enrichment enterprise. Despite the fact that enrichment customers have funded all assets of the program (with the exception of initial assets and $364 million), imputed interest has accrued and compounded on all program assets and has been reduced only by payments to the Treasury. In effect, the imputed interest represents a fixed charge that applies no matter what business situation the enrichment enterprise faces. Such a charge is inconsistent with operation in a competitive world market.

Fourth, the amount of unrecovered costs of the enrichment program that are represented by the book value of existing productive assets is not being lost but rather carried forward on the books of the Corporation as provided in section 1506. To the extent that the Corporation is able to return dividends to the Treasury consistent with operation in a competitive world market, the United States will in effect receive a return on these investments. To the extent that the Corporation's assets are sold as part of future privatization of the enrichment enterprise, the United States will receive a return of these unrecovered investments.

Fifth, as a practical matter, it is impossible for the enrichment program to recover the higher estimate of unrecovered costs as a formal debt and remain competitive in the world market for enrichment services.

For all of these reasons, the Committee concludes that it is both fair and necessary to establish the formal recovery of so-called "unrecovered costs."

Subsection e. provides that receipt of stock under subsection c. and repayment of the Initial Debt under subsection d. constitutes the sole recovery by the United States of any previously unrecovered costs incurred by the United States for enrichment activities prior to enactment of S. 210.

BORROWING

Subsection 1507 governs the issuance of bonds, notes, and other debt instruments of the USEC for purposes of financing its business activities.

Subsection a. authorizes the USEC to issue debt instruments in an amount up to $2,500,000,000 outstanding at any one time. The principal and interest are to be paid from business revenues. USEC bonds may not be deemed obligations of, and their payment may not be guaranteed by, the United States.

The Corporation may enter into binding covenants with bondholders, concerning the establishment of reserve funds and other appropriate matters, for purposes of enhancing the marketability of such bonds. Further, any bonds issued by the Corporation under section 1507 will not be backed by the full faith and credit of the United States. The principal of and interest on such bonds are instead to be paid solely from revenues of the Corporation. The authority to incur such indebtedness is fully authorized by the Act, without the need for further appropriations.

Subsection b. authorizes the USEC to set the terms and conditions of its bonds, subject to two limitations: they must mature within 30 years and the USEC must give the Secretary of Treasury at least fifteen days notice before selling them. Subsection b. also exempts the USEC from the provisions of the Government Corporation Control Act that give the Secretary of the Treasury power over the issuance of obligations by government corporations. The last sentence of subsection c. exempts the USEC from the Securities Exchange Act of 1934 (including the registration and reporting requirements of that Act).

Subsection c. permits federal agencies to purchase USEC bonds for investment using public funds, but prohibits the USEC from selling bonds to the Federal Financing Bank

PRICING

Section 1508 provides formulas for setting prices for the USEC's enrichment services.

Subsection a. requires the USEC to set the prices it charges its commercial customers in amounts that, over the long term, will enable the USEC to:

—recover the cost incurred by the USEC enriching uranium for such customers;

—repay the Initial Debt under section 1506d.;

—recover the commercial customers' allocable share of decommissioning and remedial action costs; and

—make a profit.

Subsection a. in effect requires the USEC to set commercial enrichment prices on the basis of the competitive world market for enrichment services. The Committee believes that, under the pricing policies in the legislation, the Corporation will be able both to operate profitably and be competitive with foreign suppliers of enrichment services. However, should the world market price dip below a level that permits full recovery of the Corporation's costs, the Corporation is authorized to price its commercial services according to the market with no necessary expectation that these costs will be recovered at a later time. In short, recovery of cost and profitability are goals of the Corporation over the long term, but not legal requirements that must be satisfied when business conditions make their satisfaction impractical.

The Committee generally intends that the sufficiency of the Corporation's commercial pricing policies be judged over the long-term and in the context of business conditions prevailing over the long-term. No attempt has been made to define the "long-term" because the Corporation's pricing requirement is inherently subjective and significantly dependent upon the business judgement of the Administrator. Similarly, the Committee is aware that for various reasons, the world market price for enrichment services is in actuality likely to consist of a band of prices rather than a single number. The Corporation's approach to this and other specific issues must again be decided as a matter of business judgment. However, this judgment must of course be guided by the provisions of this section and ultimately the purposes of AEA Title II.

Subsection b. requires the USEC to set the prices it charges DOE for low-assay enrichment services (i.e., enriching uranium up to 8–10 percent U–235) in amounts that, on a yearly basis, will enable the USEC to:

—recover the cost incurred by the USEC providing this service; and

—recover the allocable share of decommissioning and remedial action costs.

These prices are not to include amounts needed to repay the Initial Debt or make a profit.

Subsection b. also sets the average "base charge" paid per separative work unit (the standard measure of enrichment services) by commercial customers as a ceiling price for the "base charge" for low-assay enrichment services performed for DOE. In the event that the price the USEC needs to charge DOE to recover its costs under subsection b. exceeds the ceiling price, subsection b. permits the USEC to defer the difference and collect it in DOE prices in later years. For these purposes, the base charge means the amount paid by a customer per separative work unit for low assay enrichment services (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the costs of decommissioning, decontamination, and remedial action.

Subsection c. requires the USEC to set the price it charges DOE for high-assay enrichment services (i.e., enriching uranium above 8–10 percent U–235 for naval and some test reactor fuel) in amounts that, on a yearly basis, will enable the USEC to:

—recover the cost incurred by the USEC providing this service; and

—recover the allocable share of decommissioning and remedial action costs.

These prices are not to include amounts needed to repay the Initial Debt or make a profit. If DOE does not request any high-assay enrichment services in any year, subsection c. requires DOE to reimburse the USEC for the cost of maintaining the minimum level of operation of the high-assay production facility.

Subsection d.(1) requires the USEC to recover through its enrichment prices the total estimated cost of ultimately decommissioning all three enrichment plants. The costs recovered must be sufficient to pay for decontamination, decommissioning and remedial action for particular property as of the point in time such actions are to

be taken. Although subsection d. does not set a minimum annual amount to be collected for this purpose, it does require the USEC to recover at least 50 percent of the estimated total cost of decontamination and decommissioning for all property transferred to the Corporation (including the Oak Ridge Gaseous Diffusion Plant) by the year 2000.

Paragraph (2) requires the USEC to reevaluate the total estimated cost of decommissioning at least once every two years. With respect to the cost of decommissioning the Oak Ridge plant, the USEC's estimate may be based on the estimate made by DOE under paragraph (3).

Paragraph (3) requires the Secretary of Energy to reevaluate the estimated cost of decommissioning the Oak Ridge plant at least once every two years. If estimates under paragraph (2) or (3) indicate that a shortfall in funding has occurred, the Committee intends this amount to be recovered prospectively from customers.

Paragraph (4) requires the USEC to allocate the estimated decommissioning costs attributable to low-assay enrichment between commercial customers and DOE in proportion to their use of the enrichment facilities. In setting out this principle, the Committee does not intend to preclude reasonable and practical methods for estimating respective responsibilities for decontamination and decommissioning, even if these methods do not yield absolutely precise results.

Paragraph (5) requires all decommissioning costs attributable to high-assay enrichment to be allocated to DOE. These costs are allocated to DOE alone because virtually all high-assay enrichment has been performed for military purposes.

AUDITS

Section 1509 governs the USEC's financial transactions. The Government Corporation Control Act (5 U.S.C. 9105) requires the Comptroller General to audit the USEC at least once every three years, using generally accepted accounting principles appropriate for commercial corporate transactions. The Committee intends that the Corporation structure its books so as to meet these standards. Section 1509 requires the USEC to retain an independent accounting firm to audit its financial transactions in fiscal years when the Comptroller General does not. The General Accounting Agency is to review these audits annually.

REPORTS

Section 1510 requires the USEC to prepare annual reports of its activities. Subsection a. prescribes the content of these reports. Subsection b. governs the timing and distribution of these reports.

CONTROL OF INFORMATION

Section 1511 governs the dissemination of sensitive information. Subsections a., b., and c. relate to the control of "Restricted Data." Restricted Data is defined by section 11y. of the Atomic Energy Act of 1954 (42 U.S.C. 2011(y)) to include classified data concerning the production of enriched uranium (as well as classified data concerning atomic weapons and nuclear power).

In general, section 1511 requires the USEC to be guided by the same principles as apply to DOE concerning the exchange of restricted data and the dissemination of scientific and technical information relating to atomic energy.

Subsection a. requires the USEC to control the dissemination and declassification of Restricted Data in order to protect the common defense and security. Subsection a. does this by subjecting the USEC to the information control provisions of sections 141, 142a., and 142b. of the Atomic Energy Act of 1954 (42 U.S.C. 2161, 2162(a), and 2162(b)) by deeming the word "Commission" (otherwise defined by section 11f. of the Atomic Energy Act (42 U.S.C. 2011(f)) (to mean only DOE and the NRC) to include the USEC for purposes of section 141, 142a., 142b.

Subsection b. prohibits the USEC from making or continuing in effect any contract, including contracts for the operation of any of its enrichment plants or for the conduct of any research and development activities unless the prescribed steps are taken to prevent the disclosure of Restricted Data to unauthorized persons. Contractors must agree in writing not to permit any individual access to restricted data until the Office of Personnel Management has made an investigation of the character, associations, and loyalty of the individual, and reports to the Corporation that such access will not endanger the common defense and security. Furthermore, the USEC will not employ or permit any individual access to restricted data without the same investigation and report unless the access is determined by the USEC to be consistent with the national interest.

Subsection c. makes the restrictions on access to Restricted Data found in subsections b. through h. of section 145 of the Atomic Energy Act (42 U.S.C. 2165(b)–(h)) applicable to the USEC by deeming references to the "Commission" in such subsections to include the USEC and references to the "General Manager" to include the Administrator.

Subsection d. requires the Administrator to keep the appropriate congressional committees fully and currently informed on the USEC's activities. To the extent consistent with the Restricted Data controls of section 1511, the USEC is to make available all documents requested by the chairman of any such committee.

Subsection 3. requires that, if the USEC submits to the President or the Office of Management and Budget any document prepared for submission to Congress, it send a copy to the appropriate committees of Congress at the same time it sends it to the President or OMB.

Subsection f. limits the power of the USEC to withhold information to the powers set forth in this and other laws.

PATENTS AND INVENTIONS

Subsection 1512 makes certain of the patent law provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2181–2190) applicable to the USEC.

Subsection a. deems the term "Commission" to include the USEC wherever the term appears in section 152 (42 U.S.C. 2182), 153b.(1)

(42 U.S.C. 2183(b)(1)), and 158 (42 U.S.C. 2188) of the Atomic Energy Act. The effect of this action is:

—to give the USEC legal title to any invention or discovery pertaining to uranium enrichment made or conceived in the course of work or research performed for the USEC (section 152); and

—to give the USEC a license to use any patent of primary importance to uranimum enrichment if the patent application was filed before September 1, 1979 (section 153b.)

Thus, subsection a. provides that the USEC will have the same rights to inventions or discoveries conceived by its contractors as DOE does with its contractors.

Subsection b. requires DOE to notify the USEC of all inventions pertaining to uranium enrichment DOE becomes aware of through the notification requirements of section 151c. and 151d. of the Atomic Energy Act (42 U.S.C. 2181 (c) and (d)). In addition, subsection b. requires DOE and the Commissioner of Patents to give the USEC access to all relevant reports and patent applications. These reports and applications will be held in strictest confidence by the Corporation. It may not release the information without approval of the inventor or owner except to carry out any legal provisions or under special circumstances determined by the USEC.

Subsection c. authorizes the USEC to apply to DOE for a license to use certain patents that the USEC is not automatically licensed to use under section 153b. of the Atomic Energy Act. Subsection c. subjects USEC applications to the same procedural requirements (including hearings on the application and payment of royalties for use of the patent) as other applicants.

Subsection d. permits a court, in a case in which the holder of a nuclear energy patent has been convicted of using the patent in violation of the antitrust laws, to order the patent holder to license the USEC to use the patent.

Subsection e. provides that the USEC shall not be required to pay compensation to any patent applicant whose patent is withheld for national security reasons under 35 U.S.C. 181–187.

Subsection f. provides that the USEC is not responsible for paying any awards under section 157b.(3) of the Atomic Energy Act (42. U.S.C. 2187(b)(3)) or the judgment or settlement of any claim for patent infringement arising before the USEC is established.

Subsection g. directs the USEC to keep informed of its rights and responsibilities under the patent provisions of the Atomic Energy Act and directs DOE to cooperate with the USEC in this effort. DOE shall inform the USEC of any matters affecting the USEC's rights and responsibilities and will seek and follow as appropriate the advice of the USEC on these matters.

LICENSING

Section 1601 governs licensing of USEC facilities by the NRC. While the Committee believes that it would be appropriate for the existing gaseous diffusion plants to remain unlicensed while in the hands of a federal government corporation, application for licensing is required in recognition that, should the decision to privatize

the USEC be made, licensing of the USEC's facilities will be a prerequisite.

Subsection a. exempts the USEC and its contractors from NRC licensing and regulation with respect to the operation of the existing gaseous diffusion enrichment plants to the same extent that DOE and its contractors are exempt. This exemption ends, however, when the USEC and its contractors receive all necessary licenses in accordance with subsections b. and c.

Subsection b. directs the NRC to issue rules within two years for licensing the USEC's gaseous diffusion plants.

Subsection c. requires the USEC to apply for licenses within one year after the NRC issues rules under subsection b. Subsection c. also requires the USEC to prepare, and the NRC to adopt, an environmental impact statement on the licensing action. The subsection relieves the USEC of the National Environmental Policy Act requirements that the environmental impact statement consider the need for the gaseous diffusion plants, alternatives to them, or the cost-benefit analysis of continued operation of the plants.

Subsection d. prohibits the USEC from providing any nuclear materials or facilities to any one not licensed to receive them under the Atomic Energy Act.

Subsection e. subjects the USEC to NRC and Department of Transportation regulations pertaining to the packaging and transportation of nuclear materials.

TAXATION

Section 1602, subsection a. exempts the USEC from all state and local government taxes. Under 26 U.S.C. 501(c)(1), the USEC, as a federal agency, is exempt from federal taxation as well.

Subsection b. directs the USEC, beginning in fiscal year 1997, to make annual payments in lieu of taxes to state and local governments where the USEC has facilities. The amount of such payments is to be determined by the USEC, but it may not be more than it would pay if it were a private industrial corporation subject to taxation and it may not be less than DOE would have paid if it still operated the enterprise.

Subsection c. directs the USEC to make payments under subsection b. at the time when tax payments by private taxpayers are due. Subsection c. also prohibits the USEC from making payments for any period prior to fiscal year 1997.

Subsection d. commits the USEC's determination of the proper amount of payments under subsection b. to the USEC's discretion alone.

MISCELLANEOUS

Section 1603, subsection a. deems certain references to the "Commission" or DOE in the Atomc Energy Act of 1954 to include the USEC. These references are in:

—section 105b. (42 U.S.C. 2135(b)) (reporting antitrust violations to the Attorney General);

—section 161c. (42 U.S.C. 2201(c)) (granting subpoena power);

—section 161k. (42 U.S.C. 2201(k)) (authorizing officers and employees to carry firearms and make arrests);

—section 161q. (42 U.S.C. 2201(q)) (authorizing the grant of easements and rights-of-way);
—section 165a. (42 U.S.C. 2205(a)) (prohibiting use of cost-plus-percentage-of-cost contracts);
—section 221a. (42 U.S.C. 2271(a)) (authorizing the President to use any federal agency to protect Restricted Data and property);
—section 229 (42 U.S.C. 2278a) (prohibiting trespassing);
—section 230 (42 U.S.C. 2278b) (prohibiting photographing facilities); and
—section 232 (42 U.S.C. 2280) (seeking injunctions against violations of the Atomic Energy Act).

Subsection b. empowers the Secretary of Energy to seize and operate USEC facilities licensed by the NRC if the NRC revokes the license and the Secretary determines that the public convenience and necessity or the needs of DOE require continued operation of the facility.

COOPERATION WITH OTHER AGENCIES

Section 1604 permits the USEC to accept the assistance of federal (civilian and military), state, and local government agencies.

ANTITRUST LAWS

Section 1605 requires the USEC to conduct its activities consistent with the antitrust laws, although as a federal agency the USEC is not subject to them. The Committee believes that it would be inappropriate to make the USEC and its officers and employees subject to the antitrust laws because the Corporation remains part of the Federal Government. The Committee intends, however, that the USEC avoid any collusive behavior with foreign competitors or any anticompetitive practices. The Committee believes that the instances in which the common defense and security or other aspects of the public interest outweigh the aspects of the public interest protected by antitrust policies will be rare, but in such instances the Corporation should act as the overall public interest requires.

INDEMNIFICATION

Section 1606 authorizes the Administrator, until the enrichment plants are licensed by the NRC, to indemnify USEC contractors to the same extent that the Secretary of Energy indemnifies its contractors under section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (the "Price-Anderson Act"). The second sentence provides that once the enrichment plants are licensed by the NRC, the NRC is to treat the USEC as any other person licensed to operate an enrichment plant for purposes of providing indemnification under the Price-Anderson Act. Section 5(e) of Public Law 101–575, however, prohibits the NRC from indemnifying persons licensed to enrich uranium under the Price-Anderson Act. In light of Public Law 101–575, the NRC cannot indemnify the USEC, bu the first sentence of section 1606 would still require the USEC to indemnify its contractors under the Price-Anderson Act.

INTENT

Section 1607 provides that S. 210 should be construed liberally to effectuate Congress' intent that the USEC have adequate authority and flexibility to fulfill its responsibilities.

REPORT

Section 1608 provides for a report on and plan for the ultimate sale of the enterprise to a private owner. By deferring any decision on privatization, the Committee does not intend to indicate its approval or disapproval of privatization of the USEC. Rather, the Committee is deferring such a decision until after the Corporation has obtained operational status and its economic viability can be judged.

Subsection a. requires the Administrator to submit an interim report three years after enactment of S. 210 and a final report five years after enactment setting forth his or her views on the transfer of the enrichment enterprise to private ownership.

Subsection b. requires the President to transmit his recommendations on the report, together with a plan and draft legislation if the President recommends privatization, to Congress within 180 days after receipt of the Administrator's final report.

DECONTAMINATION AND DECOMMISSIONING FUND

Section 1701 provides for a Uranium Decontamination and Decommissioning Fund to pay to clean up the enrichment plants at the end of their useful lives.

Subsection a. establishes the Fund in the Treasury. The Fund is to include amounts recovered through enrichment prices for decommissioning the enrichment plants plus interest earned on such amounts.

Subsection b. directs the Secretary of the Treasury to manage the Fund and report to Congress on its operations yearly.

DEPOSITS

Section 1702 requires the USEC to deposit in the Fund, within sixty days of the end of each fiscal year, an amount equal to the decommissioning costs recovered during that year through enrichment prices.

PERFORMANCE AND DISBURSEMENTS

Section 1703 directs the USEC to decommission the enrichment plants and to pay the cost out of the Fund.

[Section 1703 is the last section added to the Atomic Energy Act by section 112 of S. 210. The following sections are not made part of the Atomic Energy Act.]

ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS

Section 113 exempts the USEC from all federal, state, and local environmental laws and the Occupational Safety and Health Act to the same extent as DOE as of the date of enactment. Four years after the date of enactment, the USEC will become subject to such

laws to the same extent as a private corporation unless the President extends the exemption.

MISCELLANEOUS

Section 114 makes miscellaneous amendments to the Atomic Energy Act and other laws.

Subsection (a) amends the definition of "wholly-owned Government corporation" in the Government Corporation Control Act to include the USEC.

Subsection (b) amends the enrichment plant ownership provision of the Atomic Energy Act to permit the USEC (as well as DOE and NRC licensees) to operate enrichment plants.

Subsection (c) terminates DOE's authority to provide uranium enrichment services.

Subsection (d) exempts the USEC from oversight by the Defense Nuclear Facilities Safety Board.

Subsection (e) exempts the USEC from outlay reductions under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (the "Gramm-Rudman-Hollings Act").

Subsection (f) repeals the prohibition in the Energy and Water Development Appropriations Act, 1988 that forbids the executive branch to consider the transfer of the enrichment enterprise to private ownership.

LIMITATION ON EXPENDITURES

Section 115 limits total expenditures of the USEC for fiscal year 1991 to the amount of its total receipts during such period.

SEVERABILITY

Section 116 provides that if a court holds any provision of S. 210 to be invalid, the remainder of the Act shall remain in force.

EFFECTIVE DATE

Section 117 provides that S. 210 shall take effect on the day following the end of the first full fiscal quarter following enactment of the Act, but that the Administrator or Acting Administrator may exercise the powers vested in him or her by section 1501a. of the Atomic Energy Act (as amended by section 112 of S. 210) upon the date of enactment.

START-UP COSTS

Section 118 requires that all expenses incurred by either DOE or the USEC in connection with setting up the Corporation or transferring the enrichment enterprise to it be subject to appropriation.

TITLE II—URANIUM SECURITY AND TAILINGS RECLAMATION ACT OF 1991

Title II of S. 210 is entitled the "Uranium Security and Tailings Reclamation Act of 1991." (To avoid confusion with Title I of S. 210, which becomes Title II of the Atomic Energy Act, Title II of S. 210 will be referred to as the "Uranium Security Act" in this section-by-section analysis.)

FINDINGS AND PURPOSE

Section 202 sets forth congressional findings on the status of the domestic uranium industry and states the purpose of the Uranium Security Act.

DEFINITIONS

Section 203 defines terms used in the Uranium Security Act.

VOLUNTARY OVERFEED PROGRAM

Section 210 directs the USEC to establish a voluntary overfeeding program. This program is based on the fact that, to produce a given amount of enriched uranium, the USEC can either use less uranium feed material and greater amounts of electricity to power the gaseous diffusion process or greater amounts of uranium feed material and smaller amounts of electricity. Using greater amounts of uranium feed material is known as "overfeeding."

Subsection (a) directs the USEC to offer its customers the overfeeding option for at least five years beginning in fiscal year 1992.

Subsection (b) provides that the economic savings to the USEC that results from the reduced power requirements are to be passed on to the customer.

Subsection (c) provides that if any enrichment services customer does not supply additional uranium for overfeeding, the USEC may permit other customers to provide uranium for use in overfeeding the former's order.

Subsection (d) requires that any uranium used to overfeed under this program must be mined in the United States after enactment of the Act (or mined in the United States before enactment but never sold or transferred).

Subsection (e) directs the USEC to establish procedures implementing the program within 90 days of enactment of the Uranium Security Act.

In the recent past the enrichment enterprise has engaged in overfeeding to reduce its costs by using its own stockpile of natural uranium feed materials. This stockpile is now nearly exhausted. Thus, offering the option of overfeeding to customers with provisions for the crediting of power savings does not at this point deprive the enrichment enterprise of any economic opportunity.

The effect of the overfeeding program established by section 211 should be to produce a modest increase in the demand for domestic uranium. One reason for the current low level of demand for domestic uranium by U.S. utilities is the existence of large inventories held by utilities. The overfeeding program will encourage the reduction of these inventories through its use in overfeeding.

The Corporation is required to operate the voluntary overfeeding program in such a manner as to make the program as economically attractive as possible to its enrichment services customers for the purpose of encouraging and facilitating the use of uranium for overfeeding by such customers pursuant to section 210.

NATIONAL STRATEGIC URANIUM RESERVE

Section 211 establishes a National Strategic Uranium Reserve under the direction and control of the Secretary of Energy. The Reserve is to be made up of the 50,000,000 pounds of natural uranium now held by DOE for defense purposes. Use of the Reserve is restricted to military and government research purposes. The amount of uranium provided for the reserve is approximately the same as the amount of uranium that is in current stockpiles and allocated to DOE's national defense activities.

In 1985, the Secretary of Energy allocated from existing stocks 68,900,000 pounds of uranium to meet future defense-related needs. The balance of the uranium inventory was allocated to commercial uses. The defense allocation is projected to be 50,185,000 pounds as of September 30, 1989. Section 211 formalizes the existing state of affairs. The intent of the section is to ensure that the existing stockpile reserved for defense purposes is not available for overfeeding.

RESPONSIBILITY FOR THE INDUSTRY

Section 212, subsection (a) makes the Secretary of Energy responsible for overseeing the economic viability of the domestic uranium industry. The Secretary is directed to exercise any authority he possesses under existing law to encourage the use of domestic uranium and to report to Congress annually on the action taken. This subsection does not, however, permit the Secretary to interfere with the USEC's enrichment business. The Secretary is prohibited from using any supervisory authority that he has over the Administrator of the USEC under section 1501(c) of AEA Title II.

Subsection (b) directs DOE to cooperate with the Department of Commerce, the United States Trade Representative, and other appropriate agencies to encourage the export of domestic uranium. The Secretary of Energy is required to develop recommendations and implement programs to promote such exports within 180 days of enactment of the Uranium Security Act.

GOVERNMENT URANIUM PURCHASES

Section 213 prohibits federal agencies (except the Tennessee Valley Authority) from purchasing uranium mined outside of the United States or from foreign producers after the date of enactment of the Uranium Security Act.

REGULATIONS

Section 214 directs the Secretary of Energy to adopt rules implementing the Security Act.

REMEDIAL ACTION PROGRAM

Section 220 establishes a program for reimbursing the owners of active uranium or thorium processing sites for the cost of the reclamation, decommissioning, and remedial actions that are attributable to tailings that were generated in connection with the sale of uranium or thorium to the United States.

Subsection (a) provides that, as a general rule, the cost of reclamation, decommissioning, and remedial action at any "active" uranium or thorium processing site (generally defined by section 203(1) of the Security Act as any site for which an NRC license was in effect on or granted after January 1, 1978) is to be borne by the licensee.

Subsection (b)(1) authorizes the Secretary of Energy to reimburse such licensees for the portion of these costs—

(A) attributable to tailings generated on behalf of the United States; and

(B) incurred before January 1, 2003.

The Committee contemplates that any licensee of the Nuclear Regulatory Commission as of January 1, 1978 that produced uranium or thorium under contract for the Federal Government and that meets all other requirements of Subtitle C would be eligible to receive the appropriate reimbursement even though the licensee may now be licensed by a state under section 274 of the Atomic Energy Act of 1954 instead of by the NRC.

Paragraph (2) establishes the amount the Secretary may reimburse licensees under subsection (b)(1).

Subparagraph (A) provides that the amount of reimbursement may not exceed $4.50 per dry short ton of uranium tailings. This limitation does not apply to thorium tailings.

Subparagraph (B) provides that the total payments made to all uranium licensees under the program may not exceed $270,000,000.

Subparagraph (C) provides that the total payments made to all thorium licensees under the program may not exceed $30,000,000.

Subparagraph (D) authorizes the Secretary to adjust the amounts in subparagraphs (A), (B), and (C) for inflation. This annual escalation is only intended to apply to the remaining amounts within the ceilings that have not been paid in reimbursement as of such point.

Subparagraph (E) provides that, notwithstanding subparagraph (A) if the amount reimbursed in accordance with subparagraph (A), as adjusted by subparagraph (D), is less than $300,000,000 authorized, the Secretary may pro-rate the surplus among all licensees, resulting in payments in excess of $4.50 per dry ton. Additional reimbursement under subparagraph (E) is only intended to be available for the costs of reclamation, decommissioning, and other remedial action that are attributable to tailings generated as an incident of sales to the United States.

REGULATIONS

Section 221 directs the Secretary to adopt rules implementing the reimbursement program under section 220.

AUTHORIZATIONS

Section 222 authorizes a total appropriation of $300,000,000, plus additional amounts necessary to adjust the total for inflation under section 220(b)(2)(D), for the remedial action program. Section 222 does not create an entitlement.

IMPORTS FROM NON-MARKET-ECONOMY COUNTRIES

Section 230 states the findings and purposes of subtitle D relating to the sale of natural and enriched uranium by non-market-economy countries at prices below production costs and the need to take appropriate actions to protect the national security and defense interests of the United States.

Section 231 defines terms used in subtitle D.

Section 232 requires the United States International Trade Commission to investigate the sale of natural and enriched uranium and enrichment services by non-market-economy countries to operators of domestic nuclear power plants at prices below production costs. If the Commission finds that uranium, enriched uranium, or enrichment services are being offered by non-market economy countries at prices below production costs, the President is required to report to Congress what actions are being taken by the Federal Government to discourage such practice.

Section 233 requires the owner or operator of any civilian nuclear power plant to report to the Secretary of Energy each January 1 the country of origin of any natural or enriched uranium purchased or enrichment services contracted for during the previous year.

Section 234 requires the Secretary of Energy to encourage state utility regulatory authorities to consider the importance of maintaining a viable domestic uranium industry when deciding whether to allow recovery of uranium costs through rates charged to customers.

Section 235 permits the USEC (or the Secretary until the USEC takes over the enrichment enterprise) to purchase enriched uranium at prices below the Corporation's production costs if necessary to reduce its production costs and maintain competitive prices. In the event the Corporation purchases enriched uranium at prices below its production cost and uses it to supply enrichment customers, any uranium feed material obtained from the customers may only be used to rebuild the Corporation's inventory or for overfeeding.

VIII. Cost and Budgetary Considerations

The following estimate of costs of this measure was provided by the Congressional Budget Office prior to the Committee's approval of Amendments 39–42 and 53, which removed the direct spending identified in the estimate.

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 10, 1991.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 210, the Comprehensive Uranium Act of 1991. This bill would affect direct spending and would be subject to pay-as-you-go procedures under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT F. HALE,
(for Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 210.
2. Bill title: Comprehensive Uranium Act of 1991.
3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, April 23, 1991.
4. Bill purpose: S. 210 would reorganize the government's uranium enrichment enterprise and assist the domestic uranium industry.

Title I would establish a wholly owned government corporation to replace the existing Department of Energy (DOE) program for providing uranium enrichment services to commercial nuclear powerplants and to government defense and research programs. Key features of the proposed corporation are summarized below. The bill would:

—set the corporation's initial debt at $364 million, payable with interest to the Treasury over a period of 20 years. Payment of the $364 million debt would constitute all of the recovery of past costs associated with the uranium enrichment program. By contrast, the General Accounting Office (GAO) estimates that unrecovered federal costs for uranium enrichment now total about $11 billion.

—provide the uranium enrichment corporation with up to $2.5 billion in borrowing authority, but would not allow the corporation to borrow from the Treasury's Federal Financing Bank. The corporation would fund its spending through a combination of its revenues and borrowing from the public. Under current law, the Congress provides an annual appropriation to fund the DOE program.

—provide that the proposed corporation be managed by an Administrator and a corporate board, both appointed by the President. The Secretary of Energy would have general supervision over the Administrator for health, safety, environment, and national security concerns.

—transfer current DOE production facilities for uranium enrichment to the corporation. The corporation would then issue capital stock to the Treasury to represent the book value of assets transferred.

—require the corporation to set prices to (1) recover its initial debt; (2) pay for its costs of service; (3) recover costs of decontamination and decommissioning; and (4) provide a "normal business" profit—to be paid in dividends to the Treasury.

—exempt the corporation from sequestration under the Balanced Budget Act (Gramm-Rudman-Hollings). The corporation's spending would not be subject to annual appropriations.

Title I also would establish a fund for the decontamination and decommissioning (D&D) of the government's uranium enrichment facilities.

Title II contains provisions that would assist and attempt to revitalize the domestic uranium industry by:

—establishing a program that could lead to increased purchases of domestic uranium by nuclear utilities;

—establishing a national strategic uranium reserve (consisting of uranium stocks currently held by the U.S. government);

—directing the Secretary of Energy to encourage the use and export of domestic uranium;

—requiring the federal government to purchase only domestic uranium for defense needs; and

—establishing a program for partial reimbursement, by the federal government, of remedial action at active uranium and thorium processing sites. The bill authorizes $300 million for this purpose.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1992	1993	1994	1995	1996
Direct spending:					
Net new spending on uranium enrichment:					
Estimated budget authority	15	10	10	10	10
Estimated outlays	13	12	10	10	10
Authorizations:					
Remedial action at uranium and thorium processing sites:					
Authorization level	300				
Estimated outlays		25	50	50	75

The costs of this bill fall within budget function 270

Basis of Estimate: Title I. The major potential short-term budget impact of the bill would result from the creation of a new Uranium Enrichment Corporation, which would carry out functions currently performed by the Department of Energy (DOE). The new corporation would not be subject to annual appropriations, and would have the authority to spend any funds obtained from the sale of enriched uranium or through borrowing from the public. For the 1992–1996 period, CBO estimates that the corporation would spend an average of $1.5 billion to $1.6 billion a year and take in similar amounts in annual commercial receipts; net outlays—excluding intragovernmental transactions—would be about $50 million in fiscal year 1992 and about $125 million over the 1992–1996 period. The corporation would also provide enrichment services for government programs, primarily for defense activities. Receipts from these intragovernmental sales would total about $130 million in 1992 and slightly higher amounts in subsequent years. The annual totals of commercial and government receipts for enrichment services are likely to be greater than gross spending on uranium enrichment activities over the 1992–1996 period. Hence, net spending by the corporation would be negative over the next five years. Some of the corporation's receipts, however, would be offset by spending in other programs (primarily defense), specifically for the purchase of those enrichment services.

Whether the proposed change in the uranium enrichment program would significantly affect the government's net spending over the next five years depends on what appropriations would other-

wise be. Spending plans for uranium enrichment are particularly uncertain because of potentially large increases in the program's costs for power, environmental cleanup activities, and new enrichment facilities.

Nevertheless, it is possible that spending on enrichment under the bill would exceed that under current law because the enrichment program no longer would have to compete with other federal programs for appropriations and because it would have to bear certain costs that are not required under current law. For example, CBO estimates that setting up the corporation would require up to $5 million in administrative and legal costs. The bill also would require the corporation to make payments to states, in lieu of taxes, which we estimate would total $5 million to $15 million per year starting in 1992. These new costs of the enrichment program constitute the estimated increase in net uranium enrichment spending, shown as "Direct Spending" in the table.

Use of Corporation Borrowing Authority. On average, projected spending would remain below or close to the total of estimated corporation receipts (commercial and government sales) for the 1992–1996 period. Hence, CBO does not estimate that the corporation would use any of its $2.5 billion borrowing authority in the near term—except perhaps for some short-term borrowing to meet cash-flow requirements. Long-term borrowing would become more likely if and when the corporation builds new enrichment facilities, depending on whether new technology and market demand warrant an expansion of enrichment capacity. Initial spending for construction of a new enrichment plant could begin before 1996, but would not be completed until the late 1990s. This estimate does not assume any such spending in excess of that which would have been spent from appropriated funds under current law.

Decontamination and Decommissioning (D&D). The bill would establish a fund for the eventual decontamination and decommissioning of uranium enrichment facilities. The three principal facilities are the production plants in Paducah, Kentucky; Portsmouth, Ohio; and Oak Ridge, Tennessee. (The Oak Ridge plant is no longer in active service, but DOE has not conducted any major D&D work for the plant.) Costs to complete D&D will probably total considerably more than $1 billion, in 1991 dollars, per facility. Based on information provided by DOE, CBO does not estimate any significant spending on D&D activities during the 1992–1996 period. In fact, most of the eventual D&D spending will probably take place after the year 2000.

The corporation would have to set aside, from its receipts, at least 50 percent of estimated total D&D costs by the year 2000. CBO does not estimate any change in commercial receipts over the 1992–1996 period, as a result of this D&D set-aside provision. Intragovernmental enrichment receipts could increase under the bill, but any such changes would have no net budget impact because these receipts are exactly offset by spending in defense and other nuclear materials programs. The D&D set-aside provision could affect pricing of commercial enrichment services after 1996, when most new contracts would be agreed to.

Title II. The provisions of Title II would result in $300 million of additional spending, indexed to inflation and subject to appropria-

tions, to fund remedial actions at uranium and thorium processing facilities. Assuming appropriations of the authorized funds, CBO estimates that about $200 million would be spent during the 1992–1996 period, with the remaining funds spent after 1996. This estimate is based on information provided by the Nuclear Regulatory Commission's Denver field office, which monitors uranium site plans and cleanup activities. Estimated spending for remedial action over the 1992–1996 period is shown under "Authorizations" in the table.

CBO estimates that other provisions of Title II would have no significant impact on the budget over the 1992–1996 period.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Since the uranium enrichment corporation would not require annual appropriations, any spending it conducts would be direct spending and any corporation receipts would reduce direct spending. Although all net spending by the corporation would be direct spending, CBO believes that only the new spending incurred by S. 210 should be counted for pay-as-you-go procedures. The estimated pay-as-you-go effects on outlays are $13 million for 1992, $12 million for 1993, $10 million for 1994, and $10 million for 1995.

The bill would change the existing uranium enrichment enterprise from an annually appropriated program to a direct spending program. CBO interprets the Budget Enforcement Act of 1990 to mean that any changes in direct spending that result purely from such a reclassification should not be counted for pay-as-you-go purposes. Hence, the estimate of pay-as-you-go changes for S. 210 is equal to only the estimated new costs for setting up the uranium enrichment corporation and for making the payments to states that are not required under current law.

7. Estimated cost to State and local governments: Under Title I, both Kentucky and Ohio are likely to receive federal payments in lieu of state and local taxes for facilities operated by the proposed uranium enrichment corporation. The corporation would determine the amount of any such payments. Potential payments would depend on estimates of the corporation's annual net income and the value of the corporation's property. Based on tax information provided by the two states, CBO estimates that payments could total between $5 million and $15 million per year.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Pete Fontaine.

11. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis.)

IX. Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact of the bill as reported.

Title I of the bill establishes the United States Enrichment Corporation to operate the government's uranium enrichment enterprise as a commercial enterprise on a profitable and efficient basis.

This title is not a regulatory measure, and as such, has no regulatory impact on private firms or businesses.

Title II of the bill establishes a voluntary overfeeding program available to enrichment customers, a uranium reserve, domestic purchase requirements applicable to the government, obligations for the Secretary of Energy to promote the use of domestic uranium, and a funding mechanism of the reclamation of uranium and thorium mill tailings sites. This title does not establish new regulatory requirements for such reclamation, nor does it alter the regulatory scheme within which reclamation would occur.

Modest paperwork requirements would be created in order to ensure accuracy in the operation of the overfeeding program and to ensure that the costs of reclamation at individual sites are properly counted and allocated between the government and the site owners under the formula set forth in the title. Participation in these programs is voluntary.

In addition, the Committee amendment to Title II requires certain measures to protect the domestic uranium mining industry and the USEC from unfair competition from non-market-economy countries selling uranium at prices below production costs. The Committee amendment requires the persons operating civilian nuclear power plants to file annual reports with the Secretary of Energy identifying the country of origin of any natural or enriched uranium purchased in the previous year. The Committee believes that the reporting requirement would impose little additional paperwork burden on plant operators.

No personal information would be collected in administering the programs under the bill, and the bill has no impact on personal privacy.

X. Executive Communications

The Administration submitted written testimony on the issues addressed in the legislation described herein at the hearing of the Subcommittee on Energy Research and Development on March 7, 1991. The Administration's statement is reprinted below.

Statement of W. Henson Moore Deputy Secretary of Energy

Mr. Chairman, Assistant Secretary for Nuclear Energy Bill Young and I are pleased to be here today to discuss uranium enrichment restructuring legislation. We would like to thank you, Mr. Chairman, for your unwavering support for the government corporation concept. Today, I would like to speak briefly about the importance of the uranium enrichment enterprise and the great need that exists for restructuring.

Successive Administrations and Congresses have reaffirmed that the uranium enrichment enterprise is vital to the national security and energy security of the United States. Most recently, this was confirmed by the vital role nuclear power plays in the Administration's recently released National Energy Strategy. In the coming decades, nuclear power will be expected to cleanly and safely meet a substantial portion of the additional base-load electricity generating capacity that the United States will require by the year 2030. Presently, enriched uranium provides the fuel for nuclear plants

that generate 20 percent of the Nation's electricity—electricity generated without "greenhouse gas" emissions and acid rain precursors. Producing this electricity with fossil fuels could introduce an additional 5.8 million tons of SO_2 into the atmosphere each year. Additionally, foreign purchases of U.S. enrichment services currently reduce the trade deficit by $500 million annually. Furthermore, involvement in the internationally nuclear fuel cycle strengthens our voice in non-proliferation issues. And finally, in the national security arena, the uranium enriched at our facilities fuels 40 percent of the Navy's principal combat ships. The question, then, is not whether this important business activity should be sustained, but rather how it should be managed to best serve the Nation and maximize the total return on investment to the taxpayer.

As we face this issue again in the 102nd Congress, we are presented with two fundamental options. We can take action to address and correct the problems facing the uranium enrichment program, thereby helping to secure one part of our energy future and provide a return on investment to the taxpayer, or we can stand aside and do nothing, allowing the program to continue on its present path, most likely resulting in no return on the taxpayers' investment. For our energy future, balance of trade and national security, it is simply unacceptable to fail to act. Prompt action is the only way to provide a return to the taxpayers on their past investment in the program.

The enterprise is facing severe market pressures that must be addressed. Increasing competition from the Soviets, other foreign suppliers and a potential domestic supplier (Louisiana Energy Services) and excess worldwide capacity expose the enterprise's declining ability to compete. Organizational limitations will not allow the enterprise to effectively react to the changing market. Prompt action to correct this is needed.

History gives us a clear picture of what will happen if we do nothing. Once the sole supplier of enrichment services worldwide (in the 1970s), DOE now furnishes less than half the world's total demand. With a supply glut resulting from the introduction of new suppliers, a secondary market and aggressive Soviet marketing, the enrichment environment has become highly competitive. Due to the fact that providing commercial services for a fee is an atypical Government function and because we are not structured as a commercial business, we are unable to function with the freedom and flexibility our customers expect and demand in today's market. In the future, as in the past, if forced by non-commercial considerations to price enrichment services higher than the market will bear, the U.S. enrichment enterprise could lose the nearly $3 billion in sales at stake from 1996 through 2000. Coupled with the increased competition for sales in the post-2000 time period, this could conceivably result in the eventual loss of *all* our customers except the Government, which would force the taxpayers to absorb nearly the entire cost of the enterprise. The taxpayers would have to support almost the entire cost of the operation and infrastructure, pay a higher price for defense enrichment services, bear the entire cost of environmental restoration and of decontamination and decommissioning of retired facilities and be dependent on for-

eign sources of enriched uranium for a substantial portion of the country's electric power needs. Furthermore, this path would lead to the eventual shutdown of one of the enrichment plants due to the lack of sales and leave the other plant to produce enrichment almost exclusively for the military. In return for their past investment, the taxpayers would possibly be left with one enrichment plant of limited commercial value and additional costs to produce enriched uranium for the Government.

On the other hand, if we work together and take prompt action, we can provide the taxpayers a return on their past investment in the uranium enrichment program. A temporary government corporation leading to privatization could eventually adapt to and succeed in the competitive marketplace. It could institute management, financial, and operational efficiencies to assure competitive prices. It could be more flexible with respect to marketing, contracting and administration. It would be removed from the federal budget process and insulated from political and other non-business pressures. Management would be more closely focused on the business. As a private entity it could institute an independent, faster and more effective decision making process leading to management decisions made closer to the problems, thereby resulitng in more cost effective solutions. It would be able to install a new, more aggressive and accountable management structure and culture which would allow it to more effectively compete with other enrichment suppliers.

For example, such an entity would have more flexibility to make sound business decisions in the area of technical development, such as in the deployment and use of the Atomic Vapor Laser Isotope Separation (AVLIS) process. AVLIS appears to represent the future's most cost effective process of uranium enrichment and such an entity would be better able to assess the costs and benefits of the technology, acquire private sector investment in the technology and exploit the full value of all of its possible applications, based on sound business and market considerations and free from political interference.

With restructuring, it is the taxpayer that would ultimately benefit. The taxpayer would pay less for defense needs, have a secure, domestic source of enriched uranium for electric power, and see the trade deficit reduced through the export of enrichment services. After the government corporation achieved this improved performance, it would then have an established track record of successful operating and financial performance and could be sold to the private sector. The taxpayer would be the greatest beneficiary of the increased profits earned while it was a government corporation and the increased return when the corporation was sold. Restructuring the enterprise would allow for the improved performance benefits to be shared directly with the community—as consumers through lower costs and increased productivity and as stakeholder in the enterprise through a greater return on investment.

These benefits to the taxpayers cannot be achieved without decisive action and leadership. DOE has spent a great amount of time and effort studying this problem and assessing various solutions. Last year we hired the investment firm of Smith Barney to do an independent financial assessment of the uranium enrichment pro-

gram. Our conclusion, supported by the analysis of Smith Barney, is that the way to get a return to the taxpayer is through the establishment of a government corporation and the eventual sale of that corporation to the private sector.

Even though DOE has taken internal steps to correct the problems of the program, organizational constraints too greatly limit our ability to properly and effectively compete with foreign and other private competitors. Without the passage of restructuring legislation, our ability to compete effectively will continue to decline. The inevitable result will be no return on investment to the taxpayer.

The Administration is committed to working with Congress to achieve passage of restructuring legislation. Further delay seriously jeopardizes the enrichment enterprise's ability to compete and servive—the DOE uranium enrichment enterprise simply cannot operate as effectively in a competitive world as a Government corporation leading to privatization could. I would be happy to answer any questions you may have.

XI. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the bill as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman):

The Atomic Energy Act of 1954

AN ACT for the development and control of atomic energy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Atomic Energy Act of 1954

TITLE I—ATOMIC ENERGY

* * * * * * *

CHAPTER 5. PRODUCTION OF SPECIAL NUCLEAR MATERIAL

Sec. 41. Ownership and Operation of Production Facilities.—

a. Ownership of production facilities.—The Commission, as agent of and on behalf of the United States, shall be the exclusive owner of all production facilities other than facilities which (1) are useful in the conduct of research and development activities in the fields specified in section 31, and do not, in the opinion of the Commission, have a potential production rate adequate to enable the user of such facilities to produce within a reasonable period of time a sufficient quantity of special nuclear material to produce an atomic weapon; [or] (2) are licensed by the Commission pursuant to this Act [.]*; or (3) are owned by the United States Enrichment Corporation.*

* * * * * * *

SEC. 53. DOMESTIC DISTRIBUTION OF SPECIAL NUCLEAR MATERIAL. a. The Commission is authorized (i) to issue licenses to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 123, special nuclear material, (ii) to make special nuclear material available for the period of the license, and (iii) to distribute special nuclear material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 31;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 104;

(3) for use under a license issued pursuant to section 103;

(4) for such other uses as the Commission determines to be appropriate to carry out the purposes of this Act.

b. The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distinction of special nuclear material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the special nuclear material to be distributed;

(2) the quantities of special nuclear material to be distributed; and

(3) the intended use of the special nuclear material to be distributed.

(c)(1) The Commission may distribute special nuclear material licensed under this section by sale, lease, lease with option to buy, *or* grant, [or through the provision of production or enrichment services;] *Provided, however,* That unless otherwise authorized by law, the Commission shall not alter after December 31, 1970; distribute special nuclear material except by sale [or through the provision of production or enrichment services] to any person who possesses or operates a utilization facility under a license issued pursuant to section 103 or 104 b. for use in the course of activities under such license; nor shall the Commission permit any such person after June 30, 1973, to continue leasing for use in the course of such activities special nuclear material previously leased to such person by the Commission.

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CHAPTER 14. GENERAL AUTHORITY

SEC. 161. GENERAL PROVISIONS.—In the performance of is functions the Commission is authorized to—

* * * * * * *

[v. (A) enter into contracts with persons licensed under section 53, 63, 103 or 104 for such period of time as the Commission may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission's; and

(b) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission in accordance with and within the period of an agreement for cooperative arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provides, That (i) prices for service under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) pf this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time: *And provided further*, That the Commission, to the extent necessary to assure that maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Commission shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source of special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided*, That before the Commission establishes such criteria, the proposed criteria shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing the forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) unless the Joint Committe by resolution in writing waives the conditions of, or all or any portion of, such forty-five-day period.]

[w.] *v.* prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104b., any fee, charge, or price which it may require, in accordance with the provisions of section 483a. of title 31 of the United States Code or any other law, of applicants for, or holders of, such licenses.

[x.] *w.* Establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure.

(1) that an adequate bond, surety, or other arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 11e. (2), by a licensee to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

(2) that—

(A) in the case of any such license issued or renewed after the date of the enactment of this subsection, the need for long-term maintenance and monitoring of such sites, structures and equipment of termination of

such license will be minimized, and, to the maximum extend practicable, eliminated; and

(B) in the case of each license for such material (whether in effect on the date of the enactment of this section or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material is defined in section 11e. (2), will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.

Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other loca' governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangement are not adequate to carry out subparagraphs (1) and (2) of this subsection.

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CHAPTER 21. DEFENSE NUCLEAR FACILITIES SAFETY BOARD

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SEC. 318. DEFINITION.

As used in this chapter, the term 'Department of Energy defense nuclear facility' means any of the following:

(1) A production facility or utilization facility (as defined in section 11 of this Act) that is under the control or jurisdiction of the Secretary of Energy and that is operated for national security purposes, but the term does not include—

(A) any facility or activity covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program;

(B) any facility or activity involved with the assembly or testing of nuclear explosives or with the transportation of nuclear explosives or nuclear material; or

(C) any facility that does not conduct atomic energy defense activities[.]

(D) any facility owned by the United States Enrichment Corporation.

(2) A nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but the term does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

* * * * * * *

TITLE II—UNITED STATES ENRICHMENT CORPORATION

CHAPTER 21. FINDINGS

SEC. 1101. FINDINGS.—The Congress of the United States finds that:

a. The enrichment of uranium is essential to the national security and energy security of the United States.

b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

g. Flexibility is essential to adapt business operations to a competitive marketplace.

h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

i. The present operations of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

CHAPTER 22. DEFINITONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

SEC. 1201. DEFINITIONS.—For the purposes of this title:

a. The term "Secretary" means the Secretary of Energy.

b. The term "Department" means the Department of Energy of the United States.

c. The term "Administrator" means the chief executive officer of the United States Enrichment Corporation.

d. The term "Corporation" means the United States Enrichment Corporation.

e. The term "Corporate Board" means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

f. The term "uranium enrichment" means the separation of uranium of a given isotopic content into two components, one

having a higher percentage of a fissile isotope and one having a lower percentage.

g. The term "remedial action" has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

h. The term "decontamination and decommissioning" means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

SEC. 1202 ESTABLISHMENT OF THE CORPORATION.—

a. There is hereby created a body corporate to be known as the "United States Enrichment Corporation".

b. The Corporation shall—

(1) be established as a wholly-owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. section 9101–9109), except as otherwise provided herein; and

(2) be an agency and instrumentality of the United States.

SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

a. to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

b. to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

c. to market and sell enriched uranium and uranium enrichment and related services to—

(A) the Department for governmental purposes; and

(B) qualified domestic and foreign persons;

d. to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

e. to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

f. to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

g. to maintain a reliable and economical domestic source of enrichment services;

h. to conduct its activities in a manner consistent with the health and safety of the public;

i. to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

j. to take all other lawful action in furtherance of the foregoing purposes

CHAPTER 23. CORPORATE OFFICES

SEC. 1301. CORPORATE OFFICES.—
The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—
The Corporation—

a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

(3) as otherwise authorized by law;

d. may—

(1) enter into contracts with persons licensed under sections 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable to provide uranium or uranium enrichment and related services; and

(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

e. shall sell to the Department as provided in this title, and without regard to section 57e. of title I or the provisions of 31 U.S.C. 1535, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equip-

ment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

a. shall have perpetual succession unless dissolved by Act of Congress;

b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

e. may adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and Administrative Services Act of 1949, as amended;

(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: Provided, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary to the interest of furthering the purposes of this title or that advertising is not reasonably practicable;

g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly-owned Government corporations;

j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation,

m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

n. may define appropriate information as "Government Commercial Information" and exempt such information from mandatory release pursuant to 5 U.S.C. 552(b)(3) when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute; Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under Section 1601 of this title.

SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS.—

a. Except as provided elswhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts and the December 18, 1987 Settlement Agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Au-

thority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

c. Except as provided in section 1404, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

SEC. 1404. LIABILITIES.—

Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, Section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

SEC. 1505. ADMINISTRATOR.—

a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation; Provided, however, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

b. The Administrator—

(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

(2) shall serve a term of six years but may be reappointed;

(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503d., except that the absence of such determination compensation shall be set at Executive Level I, as prescribed in 5 U.S.C. 5312;

(5) shall be a citizen of the United States;

(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

(A) the Nation's common defense and security; and

(B) health, safety and the environment.

(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of 31 U.S.C. 9104(a)(4), including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

SEC. 1502. DELEGATION.—

The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

SEC. 1503. CORPORATE BOARD.—

a. There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business and finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility:

b. (1) The specific responsibilities of the Corporate Board shall be to:

(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

c. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers and memoranda of, or in use by, the Corporation.

d. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and the ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided

in section 1504b. The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504b. during their term of employment, regardless of any recommendation received or not received under this title.

e. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

f. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

g. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

h. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

i. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in 5 U.S.C. 5314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

j. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

(2) Within 90 days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board con-

tained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

SEC. 1504. EMPLOYEES OF THE CORPORATION.—

a. Officers and employees of the Corporation shall be officers and employees of the United States:

b. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of 5 U.S.C. 5301, with compensation levels not to exceed Executive Level II, as defined in 5 U.S.C. 5313; Provided, that the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503d. and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is twenty percent less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of 5 U.S.C. 2301(b) relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

c. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under 5 U.S.C. 5551, but shall be credited by the

Corporation with the unused annual leave at the time of transfer.

(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

d. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

e. Officers and employees of the Corporation shall be covered by chapter 73 of title 5 United States Code, relating to suitability, security and conduct.

f. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

g. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—

a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department or the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions tranferred by this title, including but not limited to the following:

(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment; Provided, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts; provided further that any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity.

(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should

be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation.

(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology.

(4) The Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium; Provided, that approximately 2 metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory.

(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment.

(A) The Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department.

(B) Stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as "AVLIS", technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION.—

a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer. The Secretary of the Treasury shall hold such stock for the United States; Provided, that all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

d. The Corporation shall repay within a 20-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on 20-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt.'

e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States for uranium enrichment activities prior to enactment of this title.

SEC. 1507. BORROWING.—

a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $2,500,000,000 outstand-

ing at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidential thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

(3) Notwithstanding any other provisions of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine; Provided, that at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of 15 U.S.C. 78c(c).

c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section; Provided, that the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

SEC. 1508. PRICING.—

a. For purposes of maximizing the long term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the initial debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profit-making Corporation.

b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: Provided, however, that if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The avarage base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the initial debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection a., amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505a. at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished; provided, that by the year

2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund fifty percent of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

(3) For purpose of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any charges in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

(4) With respect to property that has been used in the production of low-assay separative work,

(A) The cost of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of customers bears to the total production of separative work over the life of such property.

(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of 31 U.S.C. 9105, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons au-

thorized to conduct audits in accordance with the provisions of this section.

SEC. 1510. REPORTS.—

a. The Corporation shall prepare an annual report of its activities. This report shall contain:

(1) A general description of the Corporation's operations;

(2) A summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

(3) Copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than 90 days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

SEC. 1511. CONTROL OF INFORMATION.—

a. The term "Commission" shall be deemed to include the Corporation wherever such terms appears in section 141 and subsections a. and b. of section 142 of title I.

b. No contracts or arrangements shall be made, nor any contract continued in effect, under Section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporration shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any

f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The De-

partment in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

SEC. 1601. LICENSING.—

a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—

a. In order to render financial assistance to those states and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed beginning in fiscal year 1997 to make payments to state and local governments as provided in this

section. Such payments shall be in lieu of any and all state and local taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities, and income are expressly exempted from taxation in any manner or form by any state, county or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

b. Beginning in fiscal year 1997, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location; Provided, however, That there shall be excluded any amount that would be payable as a tax on net income.

(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

(4) Following the commencement of payments in fiscal year 1997, no payment made to any taxing authority for any period shall be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable; Provided, that no payment shall be made to the extent that the tax would apply to a period prior to fiscal year 1997.

d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I.—

A. Any references to the term "Commission" or to the Department in sections 105 b., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230 and 232 of title I shall be deemed to include the Corporation.

b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

(1) The term "Commission" shall be deemed to refer to the Secretary;

(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

SEC. 1604. COOPERATION WITH OTHER AGENCIES.—

The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avil itself of the cooperation, services, records, and facilities of state, territorial, municipal or other local agencies.

SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—

a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

b. As used in this subsection, the term "antitrust laws" means:

(1) The Act entitled: "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July 2, 1890 (15 U.S.C. 1-7), as amended;

(2) The Act entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (15 U.S.C. 12-27), as amended;

(3) Sections 73 and 74 of the Act entitled, "An Act to reduce taxation, to provide revenue for the Government, and for other purposes," approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—

The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of Section 170 of this Act.

SEC. 1607. INTENT.—

It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilites under this title by providing it with adequate authority and administrative flexibility to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

SEC. 1608. REPORT.—

a. Three years after enactment of this title, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

b. Within 180 days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

CHAPTER 27. DECONTAMINATION AND DECOMISSIONING

SEC. 1701. ESTABLISHMENT.—

a. ESTABLISHMENT OF FUND.—

(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontaminaton and Decommissioning Fund (hereinafter referred to in this chapter as the "Fund"). In accordance with section 1402(j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

(2) The Fund shall consist of:

(A) Amounts paid into it by the Corporation is accordance with section 1702; and

(B) Any interest earned under subsection (b)(2).

b. ADMINISTRATION OF FUND.—

(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

SEC. 1702. DEPOSITS.—

Within 60 days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the

costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

SEC. 1703. PERFORMANCE AND DISBURSEMENTS.—

a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffussion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

b. The Corporation shall pay for the costs of such decomissioning and decontamination out of amounts contained within the Fund.

JOINT RESOLUTION Making further continuing appropriations for the fiscal year 1988, and for other purposes

[Public Law 100–202]

* * * * * * *

AN ACT Making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes

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TITLE III

DEPARTMENT OF ENERGY

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[SEC. 306. No funds appropriated or made available under this or any other Act shall be used by the executive branch for studies, reviews, to solicit proposals, to consider unsolicited proposals, undertake any initiative or draft any proposals to transfer out of Federal ownership, management or control in whole or in part, the facilities, assets, and functions of the uranium supply and enrichment program, including inventories, until such activities have been specifically authorized in accordance with terms and conditions established by an Act of Congress hereafter enacted; *Provided.* That this provision shall not apply to the authority granted to the Department of Energy under section 161g of the Atomic Energy Act of 1954, as amended, under which it may sell, lease, grant, and dispose of property in furtherance of Atomic Energy Act activities of to the authority of the Administrator of the General Serv'.es Administration pursuant to the Federal Property and Administative Service Act of 1944 to sell or otherwise dispose of surplus property.]

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§ 905. Exempt programs and activities

(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Increases in benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social disability insurance program established under title II of Social Security Act [42 U.S.C.A. § 401 et seq.], or in benefits payable under section 3(a), 3(f)(3), or 4(f) of the Railroad Retirement Act of 1954 [45 U.S.C.A. §§ 231b(a), 231(f)(3), 231c(a), and 231e(f), shall not be considered "automatic spending increases" for purposes of this title; and no reduction in any such increase or in any of the benefits involved shall be made under any order issued under this subchapter.

(b) VETERANS PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this subchapter;

Veterans' compensation (36-0153-0-1-701); and

Veterans' pensions (36-0154-0-1-701).

(c) NET INTEREST.—Not reduction of payments of net interest (all of major functional category 900) shall be made under any order issued under this subchapter.

(d) EARNED INCOME TAX CREDIT.—Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1944 [26 U.S.C.A. § 32] shall be exempt from reduction under any order issued under this subchapter.

(e) Offsetting Receipts and Collections.—Offsetting receipts and collections shall not be reduced under any order issued under this subchapter.

(f) CERTAIN PROGRAM BASED.—Outlays for programs specified in paragraph (1) of section 907 of this title shall be subject to reduction only in accordance with the procedures estabished in section 901(a)(3) and 906(b) of this title.

(g) OTHER PROGRAMS AND ACTIVITIES.—(1) The following budget accounts and activities shall be exempt from reduction under any order issued under this subchapter:

Activities resulting from provide donations, bequests, or voluntary contributions to the Government;

Alaska Power Administration, Operations and maintenance (89-03404-0-1-271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds):

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271);

Bureau of Indian Affairs miscellanous trust funds, tribal trust funds (14-9973-0-7-999);

Claims, defense (97-0102-0-1-51);

Claims, judgments, and relief acts (20-1895-0-1-806);

Coinage profit fund (20-5811-0-2-803);

Compensation of the President (11-0001-0-1-802);

Eastern Indian land claims settlement fund (14-2202-0-1-806);

Exchange stabilization fund (20-4444-0-3-155);

Federal payment to the railroad retirement account (60-0113-0-1-601);

Foreign military sales trust fund (11-8242-0-7-155);

Health professions graduate student loan insurance fund (Health Education Assistance Loan Program) (75-4305-0-553);

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, expects to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;

Payment of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);

Payment to civil service retirement and disability fund (24-0200-0-1-805);

Payment to copyright owners (03-5175-0-2-376);

Payment to health care trust funds (75-0580-0-1-572);

Payments to military retirement fund (98-0040-0-1-054);

Payments to social security trust funds (75-0404-0-1-571);

Payments to state and local government fiscal assistance trust fund (20-2111-0-1-851);

Payments to the foreign service retirement and disability fund (11-1036-0-1-153 and 19-0540-0-1-153);

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

Postal service fund (18-4020-0-3-372);

Salaries of Article III judges;

Soliders and Airman's Home, payment of claims (84-8930-0-7-705)

Southeastern Power Administration, Operations and maintenance (89-0302-0-1-271);

Tennessee Valley Authority funds, except non-power programs and activities (64-4110-0-3-999);

Western Area Power Administration, Construction rehabilitation, operations, and maintenance (89-5068-0-2-271); and

Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271);

United States Enrichment Corporation.

* * * * * * *

AN ACT To provide for financial control of Government corporations.

[59 Stat. 597; 31 USC 9101]

* * * * * * *

§ 9101. Definitions

In this chapter—

* * * * * * *

(3) "wholly owned Government corporation" means—

(N) United States Enrichment Corporation

APPENDIX I. CALCULATION OF THE INITIAL DEBT OF THE UNITED STATES ENRICHMENT CORPORATION

The Government's cost of providing uranium enrichment services that has been incurred and not recovered—pursuant to section 161v. of the Atomic Energy Act of 1954, prior to Fiscal Year 1987 is determined to be $364 million. The methodology for arriving at this figure follows:

Column I of the table below sets out the net appropriations to the uranium enrichment program. Net appropriations are defined as the difference between expenditures and revenues, from 1969, when the commercial operation of the enrichment enterprise began, through the end of FY 1986. Expenditures consist of capital investment and operating expenses, including those costs incurred for the Gas Centrifuge Enrichment Plant in Portsmouth, Ohio. Revenues include all funds received from commercial customers from the sale of enriched uranium. This data is based on information from the Department of Energy's annual budget submissions and from the annual financial reports of the enrichment enterprise. Net appropriations at the end of FY 1986 totaled $1.774 billion.

Column II represents revenues that would have been received from the sale of enriched uranium to the Government, if the Government has been paying the commercial price for the enrichment service. This is equal to outlays incurred in providing enrichment services for Government users. From 1969 through 1983, Government revenue is calculated by multiplying the number of separative work units (a measure of enrichment service) provided to the government by the commercial price. During this period, no appropriations were provided to government customers to pay the enrichment program for enrichment services.

From 1983 through 1986, funds were provided in appropriations bills for the separative work units produced for the government, although they were insufficient to cover expenditures. Government customers are not charged for non-cash expenditures, such as interest and depreciation, in their price for enrichment services. For these years, the difference between the amount provided in the appropriations bills and the commercial price is included in column II.

Column III, the sum of Column I and Column II, is equivalent to the next amount of money borrowed from or received by the Treasury in each year. In the years when money was borrowed from the Treasury, the amount in Column III becomes the principal upon which interest must be calculated.

The interest rates in column IV are the average long-term cost of money to the U.S. Treasury. This is documented in the financial reports of the uranium enrichment program in each year.

Interest is calculated on each amount from Column III, from the year when the money was borrowed or loaned to the end of FY 1986, at the fixed rate in Column IV. Each year is treated as a separate "loan" from the Treasury, at a specific interest rate. Column V is the total amount owed on the "loan," principal plus interest, for each year. The total amount that has been borrowed from the Treasury since the inception of the commercial enrichment program in 1969, until the end of FY 1986, is the sum of the yearly loans.

The unrecovered costs of the uranium enrichment enterprise under this interpretation are $364 million.

	Net appropriations	Government revenues	Revenue net	Interest rate	Principal and interest
	I	II	III	IV	V
Fiscal year:					
1969	−105.7	60.0	−45.7	4.985	−104.5
1970	89.1	60.0	−29.1	5.785	−71.6
1971	29.1	60.4	89.5	5.665	204.5
1972	−69.7	21.1	−48.6	5.242	−99.4
1973	76.1	29.9	−46.2	5.600	−93.8
1974	302.9	22.3	325.2	6.782	714.7
1975	−79.9	34.1	−45.8	7.015	−96.6
1976	−300.0	53.0	−247.0	6.644	−470.0
1977	−507.0	116.3	390.7	6.403	683.0
1978	283.8	114.3	−169.5	6.979	−290.8
1979	−91.0	121.5	30.5	8.202	53.0
1980	−204.0	109.8	−94.2	9.685	164.0
1981	−237.5	177.3	−60.2	11.335	−103.0
1982	56.3	230.0	286.3	12.395	456.9
1983	79.8	98.2	178.0	11.050	243.8
1984	10.6	124.2	134.8	11.052	166.2
1985	−300.1	90.0	−210.1	10.875	−232.9
1986	90.7	115.6	206.3	6.319	206.3
Total	−1,774.0	1,638.0	−136.5		364.0

APPENDIX II. SUPPLEMENTAL ANALYSIS OF UNRECOVERED COSTS BY SMITH BARNEY, HARRIS UPHAM & CO. INC.

DEPARTMENT OF ENERGY,
Washington, DC, June 20, 1990.

Hon. WENDELL H. FORD,
Chairman, Subcommittee on Energy Research and Development, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Smith Barney, Harris Upham & Company, Incorporated, has provided the enclosed supplemental material addressing the issue of unrecovered costs for the Department's uranium enrichment enterprise. This material was provided to complement and further define the results of their independent financial assessment of the uranium enrichment enterprise that we forwarded to you on May 18, 1990.

The material provided by Smith Barney clarifies their view that the Department has recovered all costs associated with uranium enrichment and that no debt exists for uranium enrichment. Smith Barney believes that there is no unrecovered cost and, in fact, an over-recovery of $1.17 billion has been made to date to the U.S. Treasury. As a result, Smith Barney had recommended that a Government enrichment corporation be established with an initial debt of zero.

I believe that the enclosed material should be useful in terms of resolving the issue of unrecovered costs as it relates to the more important conclusion by Smith Barney that a Government corporation for uranium enrichment should be established. The Department has submitted legislation to Congress to establish a Government enrichment corporation, and this legislation remains one of the Administration's highest priorities. The Senate has already passed similar legislation, and the Department is working closely with cognizant committees in the House of Representatives in order to enact enrichment legislation during this session of Congress.

Sincerely,

WILLIAM H. YOUNG,
Assistant Secretary for Nuclear Energy.

SMITH BARNEY,
New York, NY, June 15, 1990.

Mr. PHILIP G. SEWELL,
Deputy Assistant Secretary for Uranium Enrichment, Office of Nuclear Energy, U.S. Department of Energy, Washington, DC.
Re: Supplemental Analysis of Unrecovered Costs—as Evaluated in Smith Barney's Independent Financial Asssessement of the Department of Energy's Uranium Enrichment Enterprise, dated May 15, 1990.

DEAR. MR. SEWELL: In our above referenced Report, Smith Barney and its Project Team undertook a detailed analysis of the components of unrecovered costs. This analysis categorized the treatment of major expenditures in dispute into three general areas:

Oversights & Errors,
Judgments,
Policy Issues.

Utilizing the independent expertise of Coopers & Lybrand, the full range of costs involved in the debate on unrecovered costs were reviewed. For the first two categories of Oversights & Errors and Judgments, Smith Barney and the Project Team developed its own estimate of unrecovered costs as found in our Report.

Additionally, Smith Barney requested Coopers & Lybrand to calculate the full amount of the United States Government investment in the Department of Energy's Uranium Enrichment Enterprise, including the third category of Policy Issues, as of September 30, 1989. Their supplemental report is attached hereto.

In reliance upon the Coopers & Lybrand analysis, Smith Barney and the Project Team believe that there is no unrecovered cost and, in fact, there has been an over-recovery of $1.170 billion.

While there has been considerable debate over this issue and the appropriate accounting methodology to determine the amount of these costs, the Project Team has reviewed the supplemental report of Coopers & Lybrand and concurs with both its methodologies and findings. Furthermore, this supplemental report should be read and evaluated in the context of our referenced Report of May 15, 1990.

Sincerely,

WILLIAM H. TIMBERS, JR.

COOPERS & LYBRAND,
New York, NY, June 8, 1990.

Mr. WILLIAM H. TIMBERS, Jr.,
Managing Director, Smith Barney, Harris Upham & Co., Inc., Avenue of the Americas—50th Floor, New York, New York 10105

DEAR MR. TIMBERS:

As you requested, we have calculated the amount of the United States Government investment in the Department of Energy's Uranium Enrichment Enterprise as at September 30, 1989, based on the following assumptions:

a. The balance of unrecovered costs at September 30, 1989 from both commercial and government customers, before policy issues relating to plant abandonment and excess capacity, is $4,525 maillion.

b. The total costs of plant abandonment and excess capacity at September 30, 1989, including imputed interest, were $11,389 million.

c. The costs of policy issues should be allocated on the basis of a 50/50 split between equity holders and customers.

Our findings are set forth in the accompanying report. The procedures were performed solely to assist Smith Barney in its independent financial assessment of the UEE for the Department of Energy.

We believe you understand that the scope of our procedures, as described above, was intended to provide information to assist you in your independent assessment and did not constitute an examination in accordance with professional standards; accordingly, we are unable to express and do not express an opinion on any of the data included in the accompanying report, which also sets forth our comments and findings. Had we performed additional procedures or had we conducted an examination of the data in accordance with professional standards, other matters might have come to our attention that would have been reported to you. Accordingly, we take no responsibility for the sufficiency of the procedures for your purposes.

This report is intended solely for the information and use of Smith Barney and for filing with the Department of Energy and should not be used for any other purposes.

Very truly yours,

COOPERS & LYBRAND.

UNRECOVERED COSTS—TREATMENT OF POLICY ISSUES RELATING TO EXCESS CAPACITY AND ABANDONED PLANT

As indicated in our report dated May 10, 1990, we are not aware of any clear, generally accepted methodology to allocate the responsibility for and costs of policy issues relating to excess capacity and abandoned plant. However, the Federal Energy Regulatory Commission ("FERC"), which is the only U.S. government entity that consistently has to deal with issues such as abandoned plant, has determined that equitable resolution of such issues is a 50/50 split (50% to equity holders, and 50% to customers) of all prudently incurred costs. This is the policy which applies to the UEE's domestic civilian customers for their own FERC-regulated operations.

[In millions of dollars]

	Principal	Imputed interest	Total
Excess capacity	$1,200	$1,649	$2,849
GCEP abandonment	2,934	2,321	5,255
TVA demand charges	2,618	667	3,285
Total	6,752	4,637	11,389

The DOE has excluded $4,134 million from its calculation of unrecovered costs, being the principal amounts for excess capacity and for GCEP.

The interest on GCEP and excess capacity write-offs represents the imputed interest on those amounts, of which $2,265 millions is reflected in the UEE's cumulative deficit and $1,605 million is not. The TVA demand charges are for capacity costs paid for unused and unrequired firm power commitments.

In addition to the above costs, the UEE will incur an additional $951 million of TVA demand charges for the years 1990 to 1994.

If the policy of a 50/50 split were applied to the UEE, its share of the above costs at September 30, 1989 would be $5,695 million. This amount would be deducted from the recalculated unrecovered cost balance before policy issues of $4,525 million at September 30, 1989 (as shown in our report dated May 10, 1990). The restated balance of unrecovered cost at September 30, 1989 using the policy of a 50/50 split of costs is as follows:

[In millions of dollars]

As shown in Coopers & Lybrand's report of May 10, 1990	$4,525
Less: 50 percent of total policy costs	(5,695)
New overrecovery at September 30, 1989	(1,170)

This approach might be appropriate in this situation, and might resolve this issue in a manner that is equitable to the DOE and to its customers. The alternatives are to require full recovery, no recovery or determine some other basis for recovery which is more equitable.

A prudence evaluation has not been conducted and we would propose, in the absence of such an evaluation, to treat abandoned plant, total costs of excess capacity and TVA demand charges as prudently incurred.

APPENDIX III. MEMORANDUM ON USE OF DOE INVENTORIES

MEMORANDUM

U.S. GOVERNMENT,
DEPARTMENT OF ENERGY,
February 5, 1985.

NE-32

Subject: *Action:* Use of Department of Energy (DOE) Uranium Inventories

To: The Secretary

Background:

The Department currently has large inventories of uranium available for use—a total equivalent to 73,000 tons of natural uranium (MTU). This includes 53,000 MTU of natural uranium and partially depleted uranium (tails) which, if recycled to 0.20 percent U-235, would effectively provide the additional 20,000 MTU.

The Government invested about $1.6 billion to acquire this inventory. The uranium was purchased primarily to assist the domestic uranium mining industry during the period from 1964, when Government demands ceased, to the early 1970's when the demands for uranium for commercial nuclear power reactors materialized.

In 1972, the Atomic Energy Commission declared this uranium inventory surplus to Government needs. The decision was made at that time to make the inventory available to overfeed the uranium enrichment plants to produce additional enriched uranium at lower cost. For a variety of reasons, only a portion was used to overfeed from 1972 to 1978, leaving the current 53,000 MTU. This inventory could be used to meet future defense needs and/or for overfeeding the enrichment plants to reduce power costs. If used with the depleted tails only to meet future defense needs, the total inventory would be sufficient to meet projected requirements until 2013.

Discussion:

Nuclear Energy (NE) and Defense Programs (DP) are jointly proposing that overfeeding be reinitiated so that the enrichment program can reduce near-term cash outlays for power, thereby keeping the separative work unit price down. This will result in near-term savings to all enrichment customers, commercial and defense. However, it may require earlier funding for replenishing uranium to meet defense requirements, potentially as early as 1991, if projected defense needs remain unchanged.

Two options exist for replenishing uranium used in overfeeding—direct purchase and/or recycling tails. Economics to the Government of both options have been examined using conservative assumptions. The analysis concluded that overfeeding, and later recycling the tails, is the economic optimum. Overfeeding and recycling permit the ultimate allocation of 100 percent of the total inventory (natural uranium and tails) to meet defense needs. The overfeeding and recycling process does not alter the total amount of uranium available for defense needs and does not jeopardize our ability to meet defense needs.

The proposal includes the set aside of 50 percent of the existing natural uranium inventory (or 26,500 MTU) to meet defense needs. The remaining 50 percent would be made available for overfeeding, and later recycling, for use in meeting future defense needs. The overfeeding of uranium will save about $700 to $800 million in power outlays over the next 5 years. This savings will be passed on to all enrichment customers, commercial and defense, in the form of lower prices. Current projections are that up to 20 percent of future enrichment requirements will be to meet defense needs. On this basis, the benefits to DP would be about 20 percent, or $150 million, of the power savings.

When recycling is required, as early as 1991 or as late as 1999, depending on actual defense needs, DP will seek the funds required to recycle the tails. The ultimate cost or savings to DP will depend on when recycling occurs and the enrichment technology used to recycle the tails. If advanced technologies are deployed as currently projected, the costs of recycling can be reduced and the associated economic benefits to the Government further improved. If the overfeeding and recycling process were not pursued, then funds would be required to purchase uranium. The costs of purchasing new inventories could be as much as six times greater than the costs of recycling. Therefore, DP expects to minimize its total long-term costs through overfeeding and recycling.

Under this proposed strategy, the Department's uranium inventory would be designated for specific uses over time and therefore the potential sale of uranium by the Government to reduce its inventory would no longer be a consideration. That is, the potential for the Government to be in competition with the mining industry for sales of uranium would be eliminated.

Recommendation:

Approve the proposed strategy for the management and use of the Department's uranium inventory which includes these key elements:

Operate the uranium enrichment complex in an overfeeding and tails recycle mode to optimize the overall economics of the operation to the Government.

Make 50 percent of the natural uranium inventory available for overfeeding in the near-term to meet commercial require-

ments, with the remaining 50 percent of the natural uranium inventory and the tails being reserved for future defense needs.

Approved: Donald Paul Hodd,

JAMES W. VAUGHAN, JR.,
Acting Assistant Secretary
for Nuclear Energy.

WILLIAM W. HOOVER,
Assistant Secretary for Defense Programs.

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